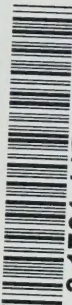


CA20N  
EAB  
-H26



3 1761 11652487 7



Ontario

# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 252

DATE: Tuesday, October 30, 1990

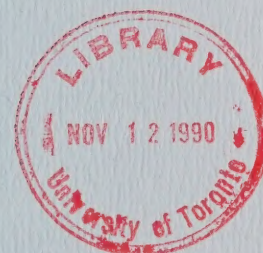
BEFORE:

A. KOVEN

Chairman

E. ELLIE

Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

**EARR**  
ASSOCIATES &  
REPORTING INC.

(416) **482-3277**

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4





CA20N  
EAB  
-H26



# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 252

DATE: Tuesday, October 30, 1990

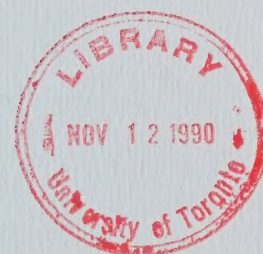
BEFORE:

A. KOVEN

Chairman

E. ELLIE

Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

**FARR**  
ASSOCIATES &  
REPORTING INC.

(416) **482-3277**

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4







HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

-----

Hearing held at the offices of the Ontario  
Highway Transport Commission, Britannica  
Building, 151 Bloor Street West, 10th Floor,  
Toronto, Ontario, on Tuesday, October 30th,  
1990, commencing at 9:00 a.m.

-----

VOLUME 252

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member







A P P E A R A N C E S

|                       |                                   |
|-----------------------|-----------------------------------|
| MR. V. FREIDIN, Q.C.) |                                   |
| MS. C. BLASTORAH )    | MINISTRY OF NATURAL               |
| MS. K. MURPHY )       | RESOURCES                         |
| MR. B. CAMPBELL )     |                                   |
| MS. J. SEABORN )      | MINISTRY OF ENVIRONMENT           |
| MS. B. HARVIE )       |                                   |
| MR. R. TUER, Q.C. )   | ONTARIO FOREST INDUSTRIES         |
| MR. R. COSMAN )       | ASSOCIATION and ONTARIO           |
| MS. E. CRONK )        | LUMBER MANUFACTURERS'             |
| MR. P.R. CASSIDY )    | ASSOCIATION                       |
| MR. H. TURKSTRA       | ENVIRONMENTAL ASSESSMENT<br>BOARD |
| MR. E. HANNA )        | ONTARIO FEDERATION OF             |
| DR. T. QUINNEY )      | ANGLERS & HUNTERS                 |
| MR. D. HUNTER )       | NISHNAWBE-ASKI NATION             |
| MS. N. KLEER )        | and WINDIGO TRIBAL COUNCIL        |
| MR. J.F. CASTRILLI )  |                                   |
| MS. M. SWENARCHUK )   | FORESTS FOR TOMORROW              |
| MR. R. LINDGREN )     |                                   |
| MR. P. SANFORD )      | KIMBERLY-CLARK OF CANADA          |
| MS. L. NICHOLLS )     | LIMITED and SPRUCE FALLS          |
| MR. D. WOOD )         | POWER & PAPER COMPANY             |
| MR. D. MacDONALD      | ONTARIO FEDERATION OF<br>LABOUR   |
| MR. R. COTTON         | BOISE CASCADE OF CANADA<br>LTD.   |
| MR. Y. GERVAIS )      | ONTARIO TRAPPERS                  |
| MR. R. BARNES )       | ASSOCIATION                       |
| MR. R. EDWARDS )      | NORTHERN ONTARIO TOURIST          |
| MR. B. McKERCHER )    | OUTFITTERS ASSOCIATION            |





Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761116524877>



APPEARANCES: (Cont'd)

|                          |   |                          |
|--------------------------|---|--------------------------|
| MR. L. GREENSPOON        | ) | NORTHWATCH               |
| MS. B. LLOYD             | ) |                          |
| MR. J.W. ERICKSON, Q.C.) |   | RED LAKE-EAR FALLS JOINT |
| MR. B. BABCOCK           | ) | MUNICIPAL COMMITTEE      |
| MR. D. SCOTT             | ) | NORTHWESTERN ONTARIO     |
| MR. J.S. TAYLOR          | ) | ASSOCIATED CHAMBERS      |
|                          |   | OF COMMERCE              |
| MR. J.W. HARBELL         | ) | GREAT LAKES FOREST       |
| MR. S.M. MAKUCH          | ) |                          |
| MR. J. EBBS              |   | ONTARIO PROFESSIONAL     |
|                          |   | FORESTERS ASSOCIATION    |
| MR. D. KING              |   | VENTURE TOURISM          |
|                          |   | ASSOCIATION OF ONTARIO   |
| MR. D. COLBORNE          | ) | GRAND COUNCIL TREATY #3  |
| MS. S.V. BAIR-MUIRHEAD   | ) |                          |
| MR. R. REILLY            |   | ONTARIO METIS &          |
|                          |   | ABORIGINAL ASSOCIATION   |
| MR. H. GRAHAM            |   | CANADIAN INSTITUTE OF    |
|                          |   | FORESTRY (CENTRAL        |
|                          |   | ONTARIO SECTION)         |
| MR. G.J. KINLIN          |   | DEPARTMENT OF JUSTICE    |
| MR. S.J. STEPINAC        |   | MINISTRY OF NORTHERN     |
|                          |   | DEVELOPMENT & MINES      |
| MR. M. COATES            |   | ONTARIO FORESTRY         |
|                          |   | ASSOCIATION              |
| MR. P. ODORIZZI          |   | BEARDMORE-LAKE NIPIGON   |
|                          |   | WATCHDOG SOCIETY         |





APPEARANCES: (Cont'd)

MR. R.L. AXFORD

CANADIAN ASSOCIATION OF  
SINGLE INDUSTRY TOWNS

MR. M.O. EDWARDS

FORT FRANCES CHAMBER OF  
COMMERCE

MR. P.D. McCUTCHEON

GEORGE NIXON

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

| <u>Witness:</u>                            | <u>Page No.</u> |
|--|-----------------|
| <u>JOHN KAPEL</u> , Resumed                | 45263           |
| Continued Cross-Examination by Mr. Cassidy | 45264           |
| Cross-Examination by Ms. Blastorah         | 45279           |
| Re-direct Examination by Mr. Lindgren      | 45317           |
| <u>GEORGE NIXON</u> , Sworn                | 45336           |
| Direct Examination by Mr. Lindgren         | 45337           |
| Cross-examination by Mr. Cassidy           | 45432           |
| Cross-examination by Ms. Blastorah         | 45444           |
| Re-examination by Mr. Lindgren             | 45491           |





I N D E X   O F   E X H I B I T S

| <u>Exhibit No.</u> | <u>Description</u>   | <u>Page No.</u> |
|--------------------|--|-----------------|
| 1497               | MNR interrogatory question Nos. 1-3, 7, 14, 15 (Document No. 3, Panel 2)   | 45279           |
| 1499               | Letter dated April 13, 1989 from the district manager of Timmins district to Mr. Kapel re upgrading of mill licence.   | 45283           |
| 1500               | Letter dated April 24, 1989 from John R. Chevalier, district manager Timmins, Gogama Districts, to Mr. John Kapel.   | 45285           |
| 1501               | Two-page letter dated April 2, 1990, from Dan Paleczny, together with two excerpted pages from the Missinaibi Provincial Park Proposed Zoning and Policy Options.                          | 45290           |
| 1502               | OFIA interrogatory question Nos. 2, 4 and 5; OFAH question Nos. 3-7; MNR question Nos. 4, 5, 7, 8, 13 and 14.  | 45336           |
| 1503               | Document entitled "Economic Impact of the Remote Tourism Industry, North Algoma" dated March 5, 1990, prepared by Econometric Research Limited and the Ministry of Tourism and Recreation. | 45344           |
| 1504               | Forest stand map for Ewen Township and Carton Township.  | 45351           |





I N D E X   O F   E X H I B I T S  
(Cont'd)

| <u>Exhibit No.</u> | <u>Description</u>   | <u>Page No.</u> |
|--------------------|--|-----------------|
| 1505               | Report entitled "Ontario<br>Wilderness Vacations and<br>Airdale Flying Services"       | 45405           |
| 1506               | Letter dated October 2, 1990 to<br>The Honourable Ruth Grier                           | 45417           |
| 1507               | Videotape  | 45428           |
| 1508               | Newspaper article from<br><u>The Toronto Star</u> dated<br>October 31, 1990            | 45429           |
| 1509               | Ministry of Natural Resources<br>Interrogatories in relation to<br>Document 4, Panel 2 | 45442           |
| 1510               | Two-page document, chronology<br>of principal events                                   | 45443           |
| 1511               | Three Information Centre comment<br>sheets, six pages                                  | 45469           |
| 1512               | Township map of Wenebagon Lake   | 45473           |
| 1513               | Photocopy of map of Wenebagon Lake   | 45483           |



1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 Mr. Lindgren.

5 MR. LINDGREN: Good morning, Madam Chair,  
6 good morning Mr. Martel.

7 I rise at this time to request that the  
8 Board set aside a brief period of time at four o'clock  
9 to discuss a procedural matter. It's a matter that  
10 arises out of the scoping session for Panel 3 last  
11 week. As the Board will recall, some of the parties  
12 had indicated they wanted to send Mr. Marek some  
13 additional supplementary interrogatories and, in fact,  
14 we have received interrogatories from the OFAH and the  
15 Industry.

16 I won't get into the merits or the  
17 problems that we are encountering with those  
18 interrogatories, but Ms. Swenarchuk would like to  
19 address the Board at four o'clock on that issue.

20 MADAM CHAIR: All right. Fine, Mr.  
21 Lindgren.

22 MR. LINDGREN: Thank you.

23  
24 JOHN KAPEL, Resumed

25 MADAM CHAIR: Mr. Cassidy.



1 MR. CASSIDY: Thank you, Madam Chair.

2 CONTINUED CROSS-EXAMINATION BY MR. CASSIDY:

3 Q. Mr. Kapel, we were just talking  
4 yesterday at the conclusion of yesterday about some --

5 A. Start here. (indicating)

6 Q. No. About some exhibits we filed at  
7 the end of the day, and if I could take you first to  
8 Exhibit 1494 which is the one-page regeneration survey.  
9 It looks like this, Mr. Kapel. (indicating)

10 Show me and I will tell you whether or  
11 not you got it.

12 A. I got all the -- they're all the  
13 same.

14 Q. 1494.

15 A. I got two 1495s.

16 Q. That's fine. If you have more than  
17 one, that's fine. Do you have 1494, sir?

18 A. Yes, sir.

19 Q. Thank you. You will note that this  
20 regeneration survey was taken on September 10th, 1987  
21 of the plantations on the Brunswick Lake peninsula and  
22 the result was a stocking average of 67 per cent of the  
23 total stocking with the planted plantations being 50  
24 per cent stocked.

25 I note that that was some five or six

1 months after the planting activities which occurred on  
2 the site?

3 A. That's correct.

4 Q. If we could then turn to Exhibit  
5 1495, which is the two-page one of which you say you  
6 have two of.

7 A. Mm-hmm.

8 Q. The same site. Again, blocks 1 and 2  
9 which I am informed you can see on this exhibit are the  
10 plantations blocks closest to the heron rookery that  
11 you described in your videotape.

12 A. Correct.

13 Q. And the stocking results of this  
14 survey, which is occurred on September 26th, 1990, is  
15 revealed on the next page. If you flip that over you  
16 see the reference to spruce being stocked at 73.6 per  
17 cent with a total stocking, including the balsam fir  
18 component, of 83.3 per cent.

19 A. Balsam was planted too?

20 Q. If you would look at that you will  
21 see it is stocked with balsam, planted with spruce and  
22 73.6 per cent. If you can then turn over to Exhibit  
23 1496, sir, which is this big piece of paper.

24 A. Yeah, mine I can't read. It's all  
25 blurry.

1 Q. Well, I don't seem to have that  
2 difficulty.

3 Does the Board have difficulty reading  
4 the portion that Mr. Kapel says is blurred?

5 I believe it has been highlighted for the  
6 benefit of the Board in yellow.

7 The first part I would like to refer you  
8 to is the site description and I am informed that the  
9 top site prescription, being mineral soil uplands with  
10 generally less than 20 centimetres of organic over  
11 mineral soil, is the applicable site type here.

12 The proposed working group for the  
13 silvicultural specifications is the fifth column over  
14 and that is spruce for this site, and if we turn over  
15 to the far side of this column at the very top--

16 A. Mm-hmm.

17 Q. --is it highlighted there for you?

18 A. Pardon?

19 Q. Do you see it over in the right-hand  
20 corner, Mr. Kapel?

21 A. Yes.

22 Q. The stocking standares call for a  
23 minimum 40 per cent spruce, a desired of 60 per cent or  
24 70 per cent of the target species which are spruce,  
25 jack pine and balsam fir listed in the right-hand



1 column.

2 Sir, would you agree with me that the  
3 stocking survey some five months after; that is, the  
4 survey taken in Exhibit 1494, indicated that, in fact,  
5 the spruce content exceeded the minimum standard by  
6 over 17 per cent and within five months of the planting  
7 was within three per cent of the desired?

8 And then when we flip to 1495, would you  
9 agree with me that some three years after the planting  
10 it had already exceeded; that is, the spruce had  
11 already exceeded the desired stocking amount of 60 per  
12 cent when in fact it was 73.6 per cent?

13 Would you agree with those figures as  
14 they appear there?

15 A. What I am is looking at this on the  
16 whole. Why is half this peninsula planted and not the  
17 other half?

18 Q. Well, sir, if you refer to the site  
19 which --

20 A. I'm very aware of the site, I walked  
21 the site.

22 Q. Excuse me, I am asking a question.  
23 You will get your opportunity.

24 If you refer to the reference for balsam  
25 fir and mixedwood, which is in the fifth column down on

1 the -- on the fifth column over and four steps down,  
2 you will see a reference that no treatment is  
3 prescribed there and it is deliberately left for  
4 natural regeneration as a decision in the silvicultural  
5 groundrules.

6 Now, you were referring to the  
7 regeneration and the plantations in your video tape. I  
8 want to take you back to what you were referring to and  
9 I am asking to confirm that, in fact, these figures  
10 demonstrate that you were wrong, that the regeneration  
11 exceeded and is exceeding even at this stage the  
12 desired stocking levels as set out in the FMA?

13 A. I'd like to say something here. I  
14 see these documents in front of me. I don't believe  
15 anything anymore the Ministry puts on paper.

16 I have proven this to the heron rookery,  
17 that you say everything is right and now you give me  
18 something on black and white here. I would like to go  
19 to that site and look at it for my own and take people  
20 with me to look at it. I don't believe any literature  
21 that the Ministry puts out.

22 Q. I'm sorry, you went to the site and  
23 took a video --

24 A. Yes, and it's --

25 Q. Are you saying you didn't do a

1 regeneration survey?

2 A. No, I'm not an expert. I'm a farmer  
3 and I know when you plant trees or plant anything, if  
4 you don't see enough growing you can tell.

5 Q. So it is your position that the  
6 statements that the regeneration appears to be of poor  
7 quality that you made cannot be based on fact because  
8 you never did any surveys, did you, of that type?

9 A. That's right, because when I tree  
10 planted, I tree planted it myself, it had a 90 per  
11 cent.

12 Q. Let's get back to the question. You  
13 have not done any surveys of this type and these  
14 figures demonstrate exactly the opposite of what you  
15 said in your evidence and in this video and what you  
16 told this Board; correct?

17 A. There obviously is areas in there  
18 that haven't got the amount of trees that should be.

19 Q. Well, sir --

20 A. The survival rate is not right.

21 Q. We have got the facts before us now,  
22 and would you agree that these figures from these  
23 regeneration surveys indicate that it has exceeded the  
24 stocking standards, even the desired stocking  
25 standards, only three years into the growth of these



1 trees? Would you agree or disagree with that? Do you  
2 disagree with that?

3 A. Yes, I disagree.

4 Q. You're not a silvicultural expert;  
5 are you?

6 A. No, sir.

7 Q. You indicated that the regen appears  
8 to be of poor quality because of the amount of slash on  
9 the site. Is it your evidence that leaving slash on a  
10 site creates poor quality regeneration?

11 A. Yes, because there are some areas  
12 when you plant a tree and if there's too much slash and  
13 too much overburden they -- you've got to have your  
14 trees into what you call mineral soil.

15 Q. I see.

16 A. And I'm not an expert.

17 Q. Now, you were talking about trying to  
18 get wood and I guess it is your understanding that you  
19 try and get wood wherever you can; is that correct?

20 A. That's correct, sir.

21 Q. That's with Little John Enterprises  
22 sawmill?

23 A. Yes, sir.

24 Q. I understand that in 1989 you were  
25 told by Malette Lumber that you could get an unlimited

1 quantity of birch from their limits, but you didn't  
2 take any; is that correct?

3 A. That's correct, because they wouldn't  
4 put anything on paper for us.

5 Q. I see. So --

6 A. And that's a company that I would not  
7 trust to do anything with unless it's marked on black  
8 and white.

9 Q. So in 1987 you were told that you  
10 could get some blowdown materials in Robert Township?

11 A. In 1987?

12 Q. Yes.

13 A. We applied for that and we were  
14 refused.

15 Q. I see. And you were told in 1987  
16 that you could get lumber from the mill yard at Malette  
17 Lumber and you never got any?

18 A. No, and that is a good reason why we  
19 don't trust these people because they deal in poor  
20 faith, because when we went to apply for that lumber it  
21 is no such a thing.

22 Q. So you are saying that my information  
23 is not correct, that--

24 A. Yes, sir.

25 Q. --you were offered -- are you saying

1       you were not offered cedar from the mill yard from  
2       Malette lumber?

3                   A. Cedar does not cut in that mill yard.

4                   Q. Well, my information is, sir, that  
5       there cedar available for you in the mill yard and you  
6       did not take up that offer.

7                   A. Yes, it was available. And, sir,  
8       with the type of cedar that was available you could  
9       make a culvert out of it, the inside was rotten, and  
10      we're not in the rotten wood business and that's why it  
11      was offered to us.

12                  Q. In 1986 in Penhorwood Township you  
13      were told that you could -- you or your son was told  
14      that you could get anything you needed out there and  
15      you never took a single stick?

16                  A. I wish my son was here because my  
17      son --

18                  Q. Well, it's your company; isn't it?

19                  A. Yes, both of us, but he would speak  
20      for me, too. He at the time took his skidder, he was  
21      told that he had to get the proper clothing and he did  
22      get the proper clothing and everything and to this day  
23      he's still waiting for approval to go get it.

24                  This is why -- is one of my reasons that,  
25      why these big companies take these young people who



1 have the will and want to do and just play them around  
2 like that.

3 MR. CASSIDY: Madam Chair, my client is  
4 prepared to call evidence that he, in fact, offered  
5 that wood and that that is not true.

6 MR. MARTEL: What township?

7 MR. CASSIDY: Penhorwood Township.

8 THE WITNESS: Was that involving white  
9 pine.

10 MR. CASSIDY: White birch.

11 THE WITNESS: I'm talking about white  
12 pine.

13 MR. CASSIDY: Q. Well, why don't you  
14 answer the question about white birch then.

15 A. Just specifically tell what type of  
16 wood.

17 Q. Well, you were told you could get  
18 white birch in that area and you never picked up  
19 anything?

20 A. No.

21 Q. Are you agreeing with me?

22 A. I don't know about that, Penhorwood.  
23 My son must have did that. That part I wouldn't know.

24 Q. So you are not in a position to  
25 disagree that?

1                   A. We've tried many times to acquire  
2 wood. The only wood we've acquired from Malette Lumber  
3 was the wood that's oversized in their yard and now we  
4 don't require any because they pass everything through.

5                   Q. In 1981 in Kenogaming Township your  
6 company was to haul spruce out of that township but you  
7 never did?

8                   A. Kenogaming. No, we have nothing in  
9 Kenogaming.

10                  Q. In 1981, you were contracted to haul  
11 spruce out of that township and you never did fulfill  
12 that?

13                  A. In Kenogaming?

14                  Q. That's correct.

15                  A. No, sir, I have no recollection of  
16 that whatsoever.

17                  Q. All right.

18                  A. As a matter of fact, in 1981 I don't  
19 think we had a big enough business to haul wood that  
20 far and afford to haul it.

21                  MR. CASSIDY: Once again, Madam Chair, my  
22 client is prepared, if required, to lead evidence in  
23 respect of all of those.

24                  I have no further questions.

25                  MADAM CHAIR: Thank you, Mr. Cassidy.

1 Ms. Blastorah.

2 MS. BLASTORAH: May I just have a couple  
3 of minutes to move up here, I think it would be easier  
4 for Marilyn.

5 MADAM CHAIR: Yes, please go ahead.

6 MR. CASSIDY: While that is occurring,  
7 Madam Chair, I would like to put one thing on the  
8 record with respect to Mr. Kapel's evidence and that  
9 is, with respect to an interrogatory we asked regarding  
10 the 1982 spray incident that he alleges, we asked in an  
11 interrogatory for him to produce the name and address  
12 of the people who he alleges were sprayed and he  
13 refused to produce that, and you will note in his  
14 evidence that he referred to that person having spoken  
15 to him this past weekend or at some point.

16 As a result of the refusal of Mr. Kapel  
17 to provide us with that name and address, we have been  
18 unable to test that evidence by speaking to that person  
19 or persons and, therefore, are unable to confirm what  
20 is essentially hearsay evidence about that incident  
21 being offered by Mr. Kapel.

22 At the appropriate time, we will be  
23 asking that the Board, as a result of this refusal,  
24 give no weight to that evidence.

25 MR. LINDGREN: Madam Chair, I think the

1       interrogatory answer is clear. He is referring to OFIA  
2       No. 5. It is clear that the matter was reported to the  
3       Ministry of Natural Resources.

4                   If my friend cared to pursue the matter,  
5       that's the appropriate agency to look into.

6                   MS. BLASTORAH: I'm sorry, could you  
7       repeat that, Mr. Lindgren.

8                   MR. LINDGREN: The question that Mr.  
9       Cassidy is referring to OFIA question No. 5, and in the  
10      answer there is an indication that Mr. Kapel reported  
11      the matter to the Ministry of Natural Resources.

12                  I'm assuming that there must be some  
13      record of that in the Ministry of Natural Resources. I  
14      had suggested that's where my friend's remedy lies. If  
15      he wants further particulars, go to the Ministry.

16                  MS. BLASTORAH: Well, perhaps I could  
17      clarify with Mr. Kapel then.

18                  Mr. Kapel, did you advise the Ministry of  
19      Natural Resources of the names of the individuals  
20      involved?

21                  THE WITNESS: Advise them of the names?

22                  MS. BLASTORAH: Yes.

23                  THE WITNESS: I advised them that the  
24      people would not -- prefer not to have their names.

25                  MS. BLASTORAH: Thank you. So the



1 Ministry doesn't have the information either?

2 THE WITNESS: No. As a matter of fact, I  
3 spoke to the gentleman when I arrived in Toronto and he  
4 still does not wish to be because he...

5 MS. BLASTORAH: Thank you.

6 MR. MARTEL: Could I ask a question then.

7 Surely MNR knows if they did a spray in  
8 that area in that year around that time on behalf of  
9 someone or on behalf of themselves.

10 MS. BLASTORAH: Mr. Martel, perhaps I can  
11 just clarify one thing.

12 - We've had a little difficulty in dealing  
13 with this as well. It is my information that there was  
14 no spray in the area of Brunswick Lake in the year that  
15 was identified in Mr. Kapel's witness statement.

16 He has declined to give the OFIA the name  
17 of the individual involved, so they haven't been able  
18 to pursue it. He did not report the individual's name  
19 at the time that he says the incident was reported.  
20 Unfortunately, the district manager at the time is now  
21 deceased so we haven't been able to, obviously, make  
22 any inquiries in that regard.

23 MR. MARTEL: MNR must have some idea,  
24 some record of the years in which they did spraying in  
25 that area. I mean, that's not some information --

1 MS. BLASTORAH: I think Mr. Cassidy's  
2 question --

3 MR. CASSIDY: -- had been sprayed, Mr.  
4 Martel.

5 MR. MARTEL: Pardon?

6 MR. CASSIDY: That wouldn't necessarily  
7 disclose if someone had been sprayed.

8 MR. MARTEL: I'm not suggesting it would,  
9 Mr. Cassidy.

10 I am just trying to find out if, in fact,  
11 spraying occurred in the area. I mean, MNR might not  
12 be aware of who was sprayed. I don't expect them to  
13 know who was sprayed if no one came -- didn't come  
14 forward. I just want to know if the spray occurred.

15 MR. CASSIDY: My information is --

16 MADAM CHAIR: Excuse me, Mr. Cassidy.

17 Ms. Blastorah, did you just say that  
18 according to your records there was no spraying in that  
19 area in that year?

20 MS. BLASTORAH: That's correct.

21 MR. CASSIDY: I might also finish my  
22 comments in this regard, Madam Chair, by indicating  
23 that I do not accept Mr. Lindgren's position.

24 It is up to the party who is producing  
25 evidence to provide answers to interrogatories and he

1 has not in a position to suggest that somebody else  
2 provide that evidence. He has to produce that  
3 information because I don't have to go a third party to  
4 seek information about evidence that he has offered.

5 MADAM CHAIR: Ms. Blastorah.

6 MS. BLASTORAH: Perhaps I could begin by  
7 filing a package of interrogatories, Mrs. Koven. These  
8 are MNR interrogatories in relation to Document No. 3  
9 of Forests for Tomorrow Panel 2, interrogatories No. 1,  
10 2, 3, 7, 14 and 15.

11 MADAM CHAIR: That will be Exhibit 1497.  
12 These are MNR interrogatories?

13 MS. BLASTORAH: Yes, these are all MNR  
14 interrogatories.

15 ---EXHIBIT NO. 1497: MNR interrogatory question Nos.  
16 1-3, 7, 14, 15 (Document No. 3  
Panel 2).

17 MS. BLASTORAH: I hope not to be very  
18 long, Mrs. Koven. I would just like to follow-up on  
19 one point raised by Mr. Cassidy, and following that I  
20 only, I think, have about three brief areas to touch  
21 on; one of them being the one Mr. Martel asked us to  
22 deal with.

23 CROSS-EXAMINATION BY MS. BLASTORAH:

24 Q. First of all, Mr. Kapel, I would just  
25 like to follow-up on Mr. Cassidy's questions in

1 relation to your alleged licensing problem?

2 A. Yes.

3 Q. If you would just give me a moment.

4 In transferring my paper I seem to have somehow mislaid  
5 the documents that I was going to refer to. I'm sorry,  
6 Mrs. Koven, if I could just have one moment -- oh, here  
7 they are.

8 Mr. Kapel, in answering Mr. Cassidy you  
9 did say a couple of times, I think, that you had been  
10 able unable to obtain approvals in some of the  
11 instances--

12 A. Correct.

13 Q. --he was referring to. I would like  
14 to show you a couple of documents, or at least one, and  
15 you would have seen these before since they are letters  
16 to you. Unfortunately, I hadn't planned to deal with  
17 this, so I don't have copies of all of these documents.  
18 I may have to come back to them or provide copies  
19 later.

20 The first one is a letter December dated  
21 12th, 1988 from the district manager of Timmins  
22 District to you and this is a letter which encloses a  
23 list of contractors presently operating on the Timmins  
24 Crown Unit and recommending that you contact these  
25 operators directly and inquire about the type of wood



1 they are cutting and its availability, and I understand  
2 there are seven different operators.

3 Can you confirm that you received this  
4 letter?

5 A. Yes, and I have contacted.

6 Q. Thank you.

7 A. Mr. Nadeau, Warne Logging, Ray  
8 Ouellet, Donald Gauthier.

9 MS. BLASTORAH: I would like to file  
10 that, please, as the next exhibit.

11 MADAM CHAIR: Exhibit 1498.

12 MS. BLASTORAH: If I may, Mrs. Koven, I  
13 will make copies.

14 THE WITNESS: May I speak on that matter  
15 pertaining to these logging contractors.

16 As a small operator, we can't take  
17 amounts of wood because we're not that  
18 financially equipped. These logging contractors have  
19 contracts with large lumber companies. When we go to  
20 them we ask them for a little for what amount we need.  
21 They either tell us, you've either got to take it all  
22 or take none or the other people won't take it. That  
23 was all the answers we get mostly from these people.

24 MS. BLASTORAH: Q. Mr. Kapel, I don't  
25 have a copy of this letter at hand, but can you confirm

1       that on April 13th of 1989 you received a letter again  
2       from the district manager of Timmins District  
3       indicating that your mill licence had been upgraded  
4       from A to C class?

5                   I do have a copy of that letter.

6                   A.   Mm-hmm.

7                   Q.   And that letter goes on to state:

8                   "Please note, as per your request, your  
9                   sawmill licence was upgraded from a type  
10                  C to a type A and C.  This does not  
11                  imply Crown timber will be made available  
12                  to run this mill."

13                  You agree that's what that letter says?

14                  A.   It always was.  Since the first  
15                  licence we've, it was always like that.

16                  Q.   So you are confirming that that  
17                  provision was always included in your licence?

18                  A.   They always provide that for a  
19                  private operator.

20                  Q.   Thank you.

21                  MS. BLASTORAH:  I would like to file that  
22                  as the next exhibit.

23                  MADAM CHAIR:  That will be Exhibit 1499.

24                  MS. BLASTORAH:  Perhaps, again, I will  
25                  keep this and make copies for the parties and the

1 Board.

2 MADAM CHAIR: All right, Ms. Blastorah.

3 ---EXHIBIT NO. 1499: Letter dated April 13th, 1989  
4 from the district manager of  
5 Timmins District to Mr. Kapel  
6 re upgrading of mill licence.

MS. BLASTORAH: Q. Are you aware, Mr.

6 Kapel, that there is a provision in the Crown Timber  
7 Act which is consistent with that statement in the  
8 letter, that a sawmill licence does not guarantee wood  
9 supply? Are you familiar with that provision of the  
10 Crown Timber Act?

11 A. Yes, I believe so.

12 Q. Thank you.

13 MS. BLASTORAH: Perhaps for the record I  
14 should just refer the Board to that; that is, the Crown  
15 Timber Act, Section 47(3).

16 MS. BLASTORAH: Q. Can you also  
17 confirm -- this is the letter I don't have a copy of,  
18 unfortunately, but from your memory can you confirm  
19 that you received a letter on April 24th, '89 or dated  
20 April 24th, '89 from the district manager in Timmins  
21 District indicating that the district was prepared to  
22 issue a district cutting licence for a mining claim?

23 Do you recall receiving a letter from the  
24 district to that effect?

25 A. You got me there. A mining claim.

1 Do you know where the mining claim was?

2 Q. I don't have a note of that at this  
3 time. Do you recall applying to the district --

4 A. There's many places where we -- there  
5 was mining claims that we went after and they had been  
6 given away to some other ones already before we got to  
7 them. I don't know.

8 MS. BLASTORAH: Unfortunately, I only  
9 have the original of this copy, but I can show it to  
10 you and, again, make copies available.

11 A. No, but if you could tell me where it  
12 was.

13 Q. Yes, okay. This letter reads:  
14 "This letter is further to our letter of  
15 April 7, 1989 concerning forestry  
16 operations on claims 91790-91795 Loveland  
17 Township."

18 A. Oh, yeah, fine.

19 Q. Perhaps it would be simpler if I just  
20 showed you the letter and you could confirm that.

21 A. No, I can tell by the Loveland  
22 Township, that's correct. This was put up by an outfit  
23 called (inaudible) Mines I believe.

24 Q. Yes. And that's the letter you  
25 received?



1                   A. Oh, I don't know if this it it, but I  
2                   mean that's -- I recall receiving the letter.

3                   Q. Okay. Thank you.

4                   MS. BLASTORAH: Again, Mrs. Koven, I  
5                   would like to file that and I will provide a copy for  
6                   the record and to the other parties.

7                   MADAM CHAIR: What is the date of that  
8                   letter?

9                   MS. BLASTORAH: That letter is dated  
10                  April 24th, 1989 from John R. Chevalier, District  
11                  Manager, Timmines, Gogama Districts, to Mr. John Kapel.

12                  MADAM CHAIR: That will be Exhibit 1500.

13                  ---EXHIBIT NO. 1500: Letter dated April 24th, 1989  
14   from John R. Chevalier, District  
15   Manager, Timmins, Gogama  
   Districts, to Mr. John Kapel.

16                  THE WITNESS: May I comment on that,  
17                  please?

18                  MADAM CHAIR: Mr. Kapel.

19                  THE WITNESS: That particular mining  
20                  claim they we -- that they looked at because when you  
21                  look at a forest management thing you look at the  
22                  yellow -- the private land claims that are outstanding  
23                  in the blocks. Most of them to this day -- quite a few  
24                  of them are all gone.

25                  This one here is right off the beaten

1 track and financially going for us to go get that wood.  
2 It's impossible. If we could get something that has  
3 access. We would have to build -- I believe there  
4 would be about six or seven miles of road ourselves  
5 through the black muck swamp. I know that land because  
6 I've trapped it for 25 years.

7 MS. BLASTORAH: Q. Am I correct, Mr.  
8 Kapel, that you had made inquiries to the Ministry  
9 about obtaining rights on mining claims?

10 A. Ask the Ministry to obtain claim  
11 rights on mining claims?

12 Q. Yes.

13 A. If there was any available, yes.

14 Q. Thank you. Am I also correct that on  
15 August 18th, 1989 you made a phone call -- now, I'm not  
16 sure whether this was you or your son, I believe it may  
17 have been your son and I am just asking you if you know  
18 that that is the case, that a phone call was made to  
19 your son in which he was given the names of five  
20 operators from whom he might purchase wood?

21 A. Mm-hmm.

22 Q. You can confirm that?

23 A. I don't know.

24 Q. Thank you.

25 MS. BLASTORH: I think I will move on,

1 Mrs. Koven. I don't want to take anymore time on that  
2 issue.

3 Q. Now, in your video yesterday, Mr.  
4 Kapel, you showed some footage of a plantation and a  
5 number of times you indicated that that that was a  
6 ten-year-old plantation.

7 Was that on the peninsula between Foster  
8 and Brunswick Lake?

9 A. Which one are you talking? The  
10 starting of the film or the end?

11 Q. I'm not just where it was on the  
12 video. It was quite a long video, but you did --

13 A. The starting of the video was no the  
14 opposite side of CSRA.

15 Q. So any references --

16 A. On the west side of the road, excuse  
17 me, that I have. There is -- CSRA would be the east  
18 side between the lake and the road.

19 Q. So any references that you made to a  
20 ten-year-old planations were not intended to refer  
21 to --

22 A. The peninsula.

23 Q. Thank you. I just wanted to clarify  
24 that. I'm not sure whether the second map behind you  
25 was marked. Could you flip up the one that's down now.

1 A. This one here? (indicating)

2 Q. No. Flip up the one that's down.

3 There is another one underneath it.

4 MR. LINDGREN: This is Exhibit 1491.

5 MS. BLASTORAH: 1491. Thank you, Mr.  
6 Lindgren.

7 Q. You might want to take a look there,  
8 Mr. Kapel, while you were standing. That map shows the  
9 areas sprayed in orange. Do you see that?

10 A. Yes.

11 Q. Do you agree that neither the bald  
12 eagle's nest shown there nor the heron rookery were  
13 sprayed in that spray operation?

14 A. No, they weren't.

15 Q. Okay. Thank you.

16 Now, in relation to the harvest of poplar  
17 on the peninsula between Brunswick and Foster Lakes,  
18 you indicated in your direct evidence that the harvest  
19 was pop -- I'm sorry, that the poplar was harvested for  
20 a plywood mill in hearst. Do you recall that?

21 A. Yes, I believe so.

22 Q. And that's a plywood veneer mill?

23 A. Well, it's a veneer mill.

24 Q. So that was a harvest for veneer  
25 logs; correct?



1 A. Yes.

2 Q. Thank you.

3 MS. BLASTORAH: Now, I would like to turn  
4 lastly to the issue Mr. Martel asked me to come back  
5 to. In doing this, I would like to file a document  
6 which contains an April 2nd, 1990 letter addressed  
7 "Dear Friend" from Dan - I'm afraid I don't know how to  
8 pronounce his last name - P-a-l-e-c-z-n-y whose title  
9 is given as the Planning Team Chairman, Missinaibi Park  
10 Planning Program, Ministry of Natural Resources.

11 Attached to that letter, which I will be  
12 distributing in a moment -- that's a two-page letter  
13 and attached to that are two excerpted pages from the  
14 Missinaibi Provincial Park proposed Zoning and Policy  
15 Options and that was the document, portions of which  
16 were filed with OFAH interrogatory No. 1 and were  
17 discussed by you yesterday in your direct evidence.

18 I will hand that out now and then I would  
19 like to come back to. Could I have the next exhibit  
20 number?

21 MADAM CHAIR: That will be Exhibit 1501.

22 MS. BLASTORAH: Thank you. That package  
23 altogether is four pages.

24

25

1       --- EXHIBIT NO. 1501: Two-page letter dated April 2,  
2                                   1990 from Dan Paleczny, together  
3                                   with two excerpted pages from the  
4                                   Missinaibi Provincial Park  
                                 Proposed Zoning and Policy  
                                 Options.

5                               MS. BLASTORAH: Q. I asked you  
6       overnight, Mr. Kapel, to review parts of the Missinaibi  
7       Provincial Park Proposed Zoning and Policy Options, the  
8       parts you filed with OFAH No. 1, and also this document  
9       which your counsel indicated he would provide to you  
10      including the letter.

11                            So you've had an opportunity to review  
12      that material?

13                            A. Yeah.

14                            Q. Thank you. Now, if you could get out  
15      of the OFAH answer it might be simpler or if you have  
16      the complete proposed document as well because I am  
17      going to be referring to the July 23rd letter included  
18      in your response there.

19                            A. July 23rd.

20                            Q. It's included in your response to  
21      OFAH interrogatory No. 1.

22                            MR. LINDGREN: You wanted the July 23rd  
23      letter.

24                            MS. BLASTORAH: Yes. Does he have the  
25      complete Proposed Zoning and Policy Options document?

1 MR. LINDGREN: Yes.

2 MS. BLASTORHA: Okay. The other parts I  
3 will be --

4 MS. LINDGREN: Are you planning on making  
5 that an exhibit?

6 MS. BLASTORAH: No, just the excerpts  
7 that I have just filed.

8 Q. I would like to turn first, Mr. Kapel  
9 and Madam Chair and Mr. Martel, to the document I have  
10 just filed as Exhibit 1501 which is the April 2nd  
11 letter and the attachments. If you could just refer to  
12 that.

13 Now, this letter and the planning  
14 document that you have, the white book you have there--

15 A. Yes.

16 Q. --that was the package which  
17 contained the questionnaire you referred to in your  
18 direct evidence; right?

19 A. Yes, I believe so.

20 Q. Yes. You agree?

21 A. I believe. It's been a while back.  
22 I know I filled this out, I read it over.

23 Q. And you received that in the mail in  
24 April 1990. Do you recall that?

25 A. I don't recall when I received the

1 mail. My wife would be the one who takes all the mail.

2 Q. I see. Can I ask you this, then: If  
3 the Ministry records indicated that that was sent to  
4 you in the mail in 1990 would you have any reason to  
5 dispute that?

6 A. I guess not.

7 Q. Okay. In any event, you received the  
8 document all you did fill out the questionnaire?

9 A. I received two documents.

10 Q. But you did receive this document?

11 A. Mm-hmm.

12 Q. Thank you. Would you refer to the  
13 April 2nd letter, please. The one I just filed.

14 A. Okay.

15 Q. It might be simpler if I gave you the  
16 package that I am going to be referring to because you  
17 seem to have a lot of separate documents. (handed)  
18 This is Exhibit 1501 which I just filed.

19 Now, as I indicated when I filed this  
20 package, this is a letter from the Chairman of the  
21 Missinaibi park planning team; correct?

22 A. Correct.

23 Q. And paragraph 2 of this document  
24 notes that this presents a zoning proposal for the  
25 park along with a set of policy options.



1 Do you agree that's what the paragraph  
2 indicates?

3 A. The second paragraph?

4 Q. Yes.

5 A. Yeah.

6 Q. And the next paragraph says, and I  
7 will read this out:

8 "We are pleased to have the Ontario  
9 Provincial Parks Council join us in this  
10 planning program. The council, a  
11 citizens advisory committee, will hold  
12 public meetings at five location as noted  
13 on the back of this page."

14 And that page, I didn't double-side copy  
15 it, it is in the exhibit provided as a separate page.

16 "They will review the questionnaires..."  
17 and again I am quoting,

18 "...and briefs and make recommendations  
19 to the Minister of Natural Resources on  
20 the details presented in this document."

21 Do you see that?

22 A. Mm-hmm.

23 Q. That's what the letter indicates?

24 A. Yes.

25 Q. Would you refer to the second page,

1 then, of the letter. Now, this includes a schedule of  
2 public meetings to discuss, as the letter indicates  
3 here, proposed zoning and policy options.

4 Do you agree that's what it says?

5 A. Yeah.

6 Q. Now, would you refer to the notes at  
7 the bottom of the document. This is below the list of  
8 the five dates for the public meetings. The first note  
9 there indicates that an open house -- with regard to  
10 the open house and displays:

11 "Planning team and steering committee  
12 members from the Ministry of Natural  
13 Resources will host an open house to  
14 discuss the details of the document and  
15 the planning program."

16 That's what's out there?

17 A. That's what it says.

18 Q. Okay. And the next paragraph reads  
19 Public Meetings, and this appears to follow in time the  
20 part we have just been reading. You will see it says  
21 3:00 to 7:30 and 7:30 to 10:00 p.m.

22 A. Mm-hmm.

23 Q. So this is the public meeting section  
24 and this schedule of public meetings indicates in that  
25 note:

1 "The Provincial Parks Council will host  
2 the public meetings. Interested persons  
3 and organizations are invited to present  
4 written and/or verbal submissions to the  
5 council at the meeting."

6 Do you see that?

7 A. Mm-hmm.

8 Q. Now, would you turn to the  
9 introduction to the Proposed Zoning and Policy Option  
10 documents and that's the next page in the package which  
11 is Exhibit 1501. Do you have that?

12 A. I think I have it here.

13 Q. The last paragraph on this page  
14 indicates that:

15 "After the scheduled public meetings..."

16 Those would be the ones we were just referring to,

17 "...And after the Parks Council have made  
18 their recommendations, the park planning  
19 team will begin preparing the preliminary  
20 management plan for the Missinaibi  
21 Provincial Park."

22 Do you see that there?

23 A. No, where are we?

24 Q. I'm sorry. This is the page I'm  
25 looking at. It's numbered 2 at the bottom and it says

1 1.0 Introduction at the top? (indicating)

2 A. Okay.

3 Q. And the last paragraph there.

4 A. The last paragraph.

5 "Upon reviewing the council's  
6 recommendations the Ministry will..."

7 Okay.

8 Q. You agree that's what that says?

9 A. Mm-hmm.

10 Q. Now, I would like to take you back to  
11 the first paragraph on that page. That paragraph  
12 indicates that this document presents options for how  
13 the park will be managed. That's what it says?

14 A. Yes.

15 Q. And the next paragraph indicates that  
16 Section 3 of the document outlines proposed zoning  
17 scheme?

18 A. Mm-hmm

19 Q. That's what that paragraph says?

20 A. Yes.

21 Q. The next paragraph says that:  
22 "Section 4 of the document deals with  
23 corresponding policy options which  
24 contain alternatives for managing  
25 specific issues."



1 Correct?

2 A. Mm-hmm

3 Q. Now, would you turn to Section 4 of  
4 the document which is contained in your response to  
5 OFAH No. 1.

6 MR. LINDGREN: Which page are you  
7 referring to?

8 MS. BLASTORAH: It is the page that is  
9 headed 4.0, Draft Park Policies and Options, and it's  
10 the section that Mr. Kapel referred to in his direct  
11 evidence.

12 Q. This is what it looks like, Mr.  
13 Kapel. There is a picture in the upper right-hand  
14 corner. (indicating)

15 A. Yes.

16 Q. Do you have that?

17 A. The one that says Brunswick Lake?

18 Q. The number is cut off on mine. It's  
19 page 19, is it?

20 A. The one that says Brunswick Lake?

21 Q. That's right. I believe also in the  
22 answer to the interrogatory you filed page 18; correct?

23 MR. LINDGREN: That's correct.

24 MS. BLASTORAH: Okay.

25 Q. If you turn to that page 18, which

1 should be the page just before that, you will see there  
2 that Section 4.2.3 deals with access to the park;  
3 correct?

4 A. Yes.

5 Q. Okay. And then within that section  
6 you referred to Item A which is Brunswick Lake?

7 A. Mm-hmm.

8 Q. Okay. Do you recall that?

9 A. Mm-hmm.

10 Q. Now, this section notes that roads  
11 leading to Brunswick Lake are no longer required by  
12 logging companies and have been abandoned; is that  
13 correct?

14 A. That's correct.

15 Q. Now, that would refer to or would  
16 include the abandonment of CSR 7 and CSR 8 and the  
17 Abbott Road; correct? Those are logging roads --

18 A. These are that they've got here, I  
19 guess, all logging roads abandoned.

20 Q. Would you agree that those are  
21 abandoned logging roads if the vicinity of Brunswick  
22 Lake?

23 A. Yes.

24 Q. Thank you. Perhaps I could just ask  
25 you to indicate on the map where those are for the

1 Board. You may have to flip down --

2 A. On this side here?

3 Q. I think you marked them on the other  
4 happen.

5 Mr. Lindgren, could I ask you to read out  
6 the exhibit number there. That one is fine. I think  
7 he marked it on there.

8 MR. LINDGREN: I think it might be more  
9 apparent on this one. It is Exhibit 1489.

10 MS. BLASTORAH: Q. Could you also point  
11 out Abbott Road on there, Mr. Kapel?

12 A. Right here. (indicating)

13 Q. So that is Abbott Road. And CSR 7,  
14 that's running across the top of Brunswick Lake from  
15 left to right on the map, on exhibit...

16 MADAM CHAIR: 1489.

17 MS. BLASTORHA: 1489.

18 THE WITNESS: No, it runs from the south.

19 MS. BLASTORAH: Q. I'm sorry. Abbott  
20 Road I'm talking about.

21 A. Yes, Abbott Road.

22 Q. And CSR 7 runs south from that?

23 A. Yes.

24 Q. On the east side of Brunswick Lake?

25 A. Correct.

1 Q. And CSR 8 runs north and south on the  
2 west side of Brunswick Lake.

3 A. Yes.

4 Q. Thank you. Just so the Board has an  
5 idea of the roads we are talking about.

6 Now, turning back again to the paragraph  
7 under heading A, Brunswick Lake.

8 A. Okay.

9 Q. That paragraph goes on to indicate  
10 that because these road have been abandoned, the  
11 Ministry is planning to remove the bridges crossing the  
12 Missinaibi and Brunswick River, and I'm quoting,

13 "...before ice destroys the structures  
14 or before the roads become impassable,  
15 making removal both costly and  
16 logistically difficult."

17 You would agree that's what the paragraph  
18 says?

19 A. Yes. I've been told even before I  
20 was given this that this was going to happen.

21 Q. And the paragraph goes on to indicate  
22 that:

23 "Access on those roads will continue  
24 until the bridges are removed or the  
25 roads deteriorate."



1 Correct?

2 A. Correct.

3 Q. Okay. Now, in your evidence in  
4 relation to these two bridges, you referred to plans  
5 for future harvest in Mons and Radisson Township. Do  
6 you recall that?

7 A. In Radisson, I believe that's what  
8 they what to do and where they are now are Stefansson  
9 and Radisson, whatever. That particular area.

10 Q. In the area of Radisson Township,  
11 then?

12 A. Correct, yeah.

13 Q. Okay. Now, can you confirm that at  
14 the public meetings we've been referring to, those are  
15 the ones that are set out in the April 2nd letter?

16 A. Mm-hmm.

17 Q. Can you confirm that at those public  
18 meeting, the ones specifically held in Kapuskasing and  
19 Toronto, presentations were made by Spruce Falls Power  
20 and Paper in relation to options to access those  
21 allocations in the vicinity of Radisson Township, and  
22 those proposals included an option that would have wood  
23 transported to Hearst using the Abbott Road and the two  
24 bridges in question? The ones across the Brunswick and  
25 the Missinaibi River?

1 A. Correct.

2 Q. You can confirm that that was done?

3 A. Yes.

4 Q. Okay.

5 A. There were three or four proposals  
6 put there.

7 Q. And that was at the meetings in May?

8 A. Yes, I believe there's a piece paper  
9 here with it, that you have proposals of A, B, C, D and  
10 E, is it?

11 Q. I'm sorry. Is this what you are  
12 referring to, Mr. Kapel? (indicating)

13 A. Yes.

14 Q. This summary of proposed crossings?

15 A. Yes.

16 Q. That's attached, again, to your  
17 interrogatory. It is one page headed Summary of  
18 Proposed Crossings of Missinaibi Provincial Park in the  
19 Gordon Cousins Forest Timber Management Plan.

20 It looks like this Mr. Martel.  
21 (indicating)

22 Q. It sets out a number of proposal?

23 A. Mm-hmm.

24 Q. Now, my question was - and I just  
25 want to make sure we are clear - can you confirm that

1       those proposals were presented at the public meetings  
2       help in May in Kapuskasing and Toronto?

3                   A. I do not know. I just go with the  
4       literature I receive.

5                   Q. So you didn't attend those meetings?

6                   A. No, I didn't, ma'am.

7                   Q. Would you refer to the summary you  
8       just mentioned, this page here, and you will see at the  
9       bottom there is a note in small print?

10                  A. What paper?

11                  Q. It's the the Summary of Proposed  
12       Crossings of Missinaibi Provincial Park and I believe  
13       this is, again, included in your answer to the  
14       interrogatory.

15                  MADAM CHAIR: Ms. Blastorah, remind me,  
16       was this is the zoning and policy options document or  
17       was this sent out separately?

18                  MS. BLASTORAH: This was attached to the  
19       July 23rd letter.

20                  MR. LINDGREN: And it is not part of the  
21       document that was sent out. That was the question from  
22       the Chair.

23                  MS. BLASTORAH: Yes, that's right. This  
24       was attached to the July 23rd letter.

25                  MR. LINDGREN: I think Madam Chair's

1 question was pertaining to the white document. It was  
2 not part of that document.

3 MADAM CHAIR: Yes. It was not part of  
4 that document, it was part of the July 23rd letter--

5 MS. BLASTORAH: Which is included in the  
6 OFAH --

7 MADAM CHAIR: --which is a two-page  
8 letter with this summary and the map?

9 MS. BLASTORAH: That's correct. And  
10 this, of course, was sent out after those opening  
11 houses would have been held.

12 Q. Correct, Mr. Kapel?

13 A. Yes.

14 Q. Now, that note indicates that --  
15 well, perhaps I will read just read it.

16 "The use of existing and proposed river  
17 crossings, with the exception of crossing  
18 G..."

19 And that would be referencing back to the  
20 summary outlined on that page,

21 "...was presented by Spruce Falls Power  
22 and Paper Company to the Ontario  
23 Provincial Parks Council at the  
24 Missinaibi Provincial Park public  
25 meetings held on May 10th, 1990 in



1 Kapuskasing and May 16th, 1990 in  
2 Toronto. All new information and public  
3 correspondence relative to Missinaibi  
4 Provincial Park will be forward to the  
5 Provincial Parks Council for their use in  
6 formulating recommendations to the  
7 Minister of Natural Resources."

8 Now, on the basis of that note, Mr.  
9 Kapel, do you have any reason to dispute that that  
10 presentation was made at those two meetings in May?

11 A. No.

12 Q. Are you aware that that proposal to  
13 access the Radisson Township area using the Abbott Road  
14 and those two bridges has become necessary because of  
15 an agreement to phase out the river drive on the  
16 Kapuskasing River?

17 A. That's what I was told, but I thought  
18 this wood was going to Hearst not to Kap.

19 Q. Well, my information is that the  
20 proposal to take the wood to Hearst arose from the fact  
21 that the wood would no longer be driven on the  
22 Kapuskasing River to Kapuskasing. Can you confirm  
23 that?

24 A. I guess so. That's what they say.  
25 That's one of the options they say they had or one of

1 the problems they had.

2 Q. That's one of the options to address  
3 that problem; is that correct?

4 A. Yes.

5 Q. Thank you. Now, would you agree with  
6 me -- and I appreciate you weren't at the meeting in  
7 May, so I am going to ask you hypothetically.

8 Would you agree that anyone who attended  
9 those meetings, those public meetings in May, either at  
10 Kapuskasing or Toronto, would have had an opportunity  
11 to obtain that information about those new proposals  
12 and to consider that information in responding to the  
13 questionnaire which you filled out and that  
14 questionnaire was not due until June 29th?

15 Can you confirm that they would have had  
16 that information in May?

17 A. I don't know.

18 Q. Well, the public meetings were held  
19 in May; correct?

20 A. May is when we open our lodge and we  
21 were very busy.

22 Q. Yes. I'm not asking if you attended  
23 or if you obtained that information, I am asking how  
24 hypothetically. Would you agree that anyone who did  
25 attend the meeting would have obtained that information

1 and could have considered it in responding to the  
2 questionnaire?

3 A. If that information was available.

4 Q. Okay. Well, we did go through the  
5 note here which indicated the information was.

6 A. It was.

7 Q. Okay. Thank you. Now, would you  
8 turn to the letter of July 23rd, which is included in  
9 your response to the OFAH interrogatory No. 1. I  
10 believe you indicated yesterday that you had received  
11 this; correct?

12 A. A letter?

13 Q. You had received this letter of July  
14 23rd, 1990?

15 A. Okay.

16 Q. Am I correct that you indicated  
17 yesterday you had received that letter? I assume you  
18 did since you included it.

19 A. Yes, I probably did.

20 Q. Okay. Thank you. And, again, this  
21 is a letter from the Chairman of the planning team for  
22 the Missinaibi Park Planning Program; correct? That's  
23 indicated on the second page of the letter?

24 A. Yes, Dan.

25 Q. Dan Paleczny. I would like to refer

1 you to paragraph 7 of this letter, and they are not  
2 numbered so you will just have to count down.

3 Do you have it?

4 A. "We now know..."

5 Q. Okay. I would just like to read out  
6 what it indicates in that paragraph, and I am quoting "

7 "We now know that the two existing  
8 bridges crossing the Missinaibi and  
9 Brunswick Rivers in Abbott Township (see  
10 on the map)..."

11 And that would be the map that was  
12 included with this letter, Mr. Kapel? Do you agree,  
13 Mr. Kapel?

14 A. Yes.

15 Q. Thank you.

16 "...will likely be required by Spruce  
17 Falls Power and Paper Company for the  
18 next 10 to 20 years (in the proposed  
19 zoning and policy options document on  
20 page 19)..."

21 And that is the section we just referred  
22 to, right, Mr. Kapel?

23 A. Mm-hmm

24 Q. "...we indicated the bridges were no  
25 longer required."

1 What's that what paragraph says?

2 A. Yes.

3 Q. And the paragraph goes on to say:

4 "These existing crossings, along with all  
5 public input, will be reviewed by the  
6 Provincial Parks Council and the  
7 Ministry's park and timber planning  
8 team. If deemed appropriate, they will  
9 be presented in the draft timber  
10 management plan in December. At that  
11 time, I..." and this will be Mr.

12 Paleczny,

13 "...will be sending you another letter to  
14 explain how those crossings will be dealt  
15 with in the draft timber management  
16 plan."

17 That's what it says, Mr. Kapel?

18 A. Yes.

19 Q. And that will be the timber  
20 management plan for the Gordon Cousins Forest; correct?

21 A. Correct.

22 Q. And that plan is not yet approved?

23 A. Not if it's December. A plan in  
24 December.

25 Q. I'm sorry, I didn't understand your



1 answer.

2 A. It says the management plan in  
3 Decembert.

4 Q. That's right. And the letter here  
5 indicates that the draft timber management plan will be  
6 presented in December?

7 A. Exactly.

8 Q. So you would agree that it is not  
9 approved yet?

10 A. Right.

11 Q. Now, the paragraph at the top of the  
12 second page of that letter, if you could turn to that,  
13 asks that documents in relation to the material  
14 enclosed with this letter be sent to the chairman of  
15 the park planning team and notes that those comments  
16 will be passed on to Mr. Lloyd Burrridge, chairman of  
17 the provincial parks council; is that correct?

18 A. Mm-hmm, yes.

19 Q. And you did, in fact, comment,  
20 although you sent your letter of August 22nd, 1990 to  
21 the then Minister of Natural Resources, Mrs. McLeod;  
22 correct?

23 A. Correct.

24 Q. Can you confirm that on August 20th,  
25 1990 another special presentation in relation to the

1 access proposals was also made in Toronto to the  
2 Federation of Ontario Naturalists, the Wildlands  
3 League, The World Wildlife Fund, Canadian Canoe  
4 Wilderness Associations and Canoe Ontario, and I  
5 believe Mr. Huff was there, although I'm not sure  
6 whether he was representing Forests for Tomorrow or the  
7 Federation of Ontario Naturalists. Can you confirm  
8 that?

9 A. I was aware there was some type of  
10 meeting.

11 Q. Thank you. Now, Mr. Kapel, would you  
12 agree that as of today there has been no decision made  
13 in relation to continued use of the existing crossings  
14 on the Missinaibi and Brunswick Rivers?

15 A. Correct.

16 Q. Thank you.

17 A. Ma'am, may I speak?

18 In the past two years that we have gone  
19 now, decision of removal of this would start off that  
20 the roads would deteriorate and left to go. Now they  
21 tell us the roads will go back.

22 What I'm curious is, in the future if  
23 this pass -- this road is left to be open for people to  
24 use again, I have to reroute my tourist operations.  
25 This is what my concern is.

1                   What am I going to do? I went one way  
2                   already, I went back the other way, now I've got to go  
3                   back the other way. This is my concern, but I can't  
4                   get no definite answers. I have letters here signed by  
5                   Mr. Grayson, by Mr. Lightheart that these roads were  
6                   going to be abandoned and left be.

7                   Q. Mr. Kapel, I would just like to  
8                   confirm one thing, and you have already pointed the  
9                   roads out on the map. You would agree with me that the  
10                  proposal here deals only with Abbott Road, not with CSR  
11                  7 or CSR 8; correct?

12                  A. Correct.

13                  Q. Thank you.

14                  MS. BLASTORAH: Those are my questions.

15                  MADAM CHAIR: Mr. Blastorah, two quick  
16                  questions.

17                  Could you remind the Board again when the  
18                  Zoning and Policy Options document was sent to the  
19                  public?

20                  MS. BLASTORAH: The April 2nd with the  
21                  covering letter that went out with that document and it  
22                  is my information that that document was mailed out to  
23                  the public at about the date of that covering letter.

24                  MADAM CHAIR: April 2nd, 1990?

25                  MS. BLASTORAH: Yes.

1 MADAM CHAIR: Also, the letter of July  
2 23rd signed by Mr. Dan Paleczny, when he signs planning  
3 team chairman, are we meant to know that that's the  
4 timber management planning team chairman?

5 MS. BLASTORAH: No.

6 MADAM CHAIR: That's the Missinaibi Park  
7 planning program planning team chairman?

8 MS. BLASTORAH: Yes, that's correct. The  
9 latter is correct. He signed the letter planning team  
10 chairman, Missinaibi Park planning program.

11 If you actually refer to the body of the  
12 letter, I think it maybe somewhat clear because he  
13 indicates - and if you will just give me a moment I  
14 will try and find an appropriate reference -- well,  
15 perhaps the simplest reference would be the last  
16 paragraph where he is asking for comments and asks them  
17 to be sent to him, as well as the timber management  
18 planning team.

19 MADAM CHAIR: Yes.

20 MS. BLASTORAH: He would forward them to  
21 the parks council and the timber management planning  
22 team.

23 MADAM CHAIR: I see that. One other  
24 question. In the schedule of public meetings in  
25 Exhibit 1501--

1 MS. BLASTORAH: Yes.

2 MADAM CHAIR: --the second page, the  
3 notes concerning open house displays from 3:00 to 7:30  
4 p.m., those are being held by the timber management  
5 planning team or, again, that's the park management  
6 planning team?

7 MS. BLASTORAH: That's the park  
8 management planning team.

9 MADAM CHAIR: Does a member of the park  
10 management planning team sit on the timber management  
11 planning team?

12 MS. BLASTORAH: Yes.

13 MADAM CHAIR: Who is that person? Is it  
14 Mr. Paleczny?

15 MS. BLASTORAH: It's a Mr. Dave Jack I'm  
16 advised from Kapuskasing District.

17 MADAM CHAIR: Okay. Thank you.

18 MS. BLASTORAH: I think it does indicate  
19 here that -- well, no, it is not clear on the face, so  
20 I won't refer you to it. Thank you.

21 Those are my questions.

22 MADAM CHAIR: Thank you.

23 Mr. Martel.

24 MR. MARTEL: I want to go back if I could  
25 to wood supply. I am just trying to get something



1 clarified.

2 Is your concern that you can't get a  
3 licence or cutting rights directly from MNR as opposed  
4 to going through somebody who has the cutting licence  
5 already or through someone who owns land privately?

6 THE WITNESS: Not at present. We've  
7 tried many times --

8 MR. MARTEL: No. I am asking you, is it  
9 your concern that you can't get an allocation directly  
10 from the Crown as opposed to having to go through  
11 either one of the companies, one of the operators that  
12 are already in the area? You want to deal directly  
13 with MNR and can't do it and get directly from them; am  
14 I correct?

15 THE WITNESS: We would prefer to have a  
16 contractor do it because we are busy enough in our  
17 sawmill without operating two businesses. But even if  
18 we had to go that way we'd would...

19 MR. MARTEL: In other words, you are not  
20 interested so much in cutting as getting wood delivered  
21 to your mill?

22 THE WITNESS: Yes, sir, a supply. If you  
23 haven't got an inventory you can't sell.

24 MS. BLASTORAH: Mrs. Koven, could I just  
25 ask one question arising out of that that may help

1 clarify this.

2 Q. Mr. Kapel, can you confirm for me  
3 that you do or did have a valid district cutting  
4 licence until March of 1990 which -- from May 1989  
5 until March 1900?

6 A. Mm-hmm. What township is it, for  
7 what area?

8 Q. I don't have that information in  
9 front of me, Mr. Kapel. You did have a district  
10 cutting licence? Did you have more than one?

11 A. I think so.

12 Q. Thank you.

13 MS. BLASTORAH: Those are all my only  
14 questions.

15 THE WITNESS: But they were small  
16 little -- as a matter of fact, if I understand the one  
17 she is talking about, was for horse logs and we were  
18 logging along the river -- or along the lake and we  
19 logged a good part of it, and then after that we needed  
20 a mountain goat because the horse couldn't go up the  
21 hill anymore.

22 MR. MARTEL: My concern wasn't so much  
23 that, my concern was, I didn't get a proper handle on  
24 whether you were trying to get cutting rights on your  
25 own or, in fact -- and I didn't get the impression if

1 it was that you wanted wood delivered directly to your  
2 mill from somebody else or you went and got it and  
3 brought it in. I taught you just couldn't get a  
4 cutting licence.

5 THE WITNESS: We'll even pick it up.

6 MR. MARTEL: Yes, but you don't want to  
7 cut yourself?

8 THE WITNESS: It's pretty difficult to do  
9 everything.

10 MR. MARTEL: Right. I am just trying to  
11 get that clarified. Thank you.

12 MS. BLASTORAH: Thank you.

13 MADAM CHAIR: Thank you, Ms. Blastorah.

14 Mr. Lindgren.

15 MR. LINDGREN: A few brief questions,  
16 Madam Chair.

17 RE-DIRECT EXAMINATION BY MR. LINDGREN:

18 Q. The first one arises out of Mr.  
19 Cassidy's cross-examination yesterday, and you might  
20 recall that he had asked you whether or not you had  
21 done a survey of the number of trees that had been cut  
22 within the rookery and I think there is a suggestion  
23 that, at least from his client's perspective, only  
24 three trees had been cut before operations were  
25 suspended. Do you recall that conversation?

1 A. With who?

2 Q. With Mr. Cassidy.

3 A. Yes.

4 Q. Now, you have been on the site, you  
5 photographed the site, you videotaped the site, did  
6 only three trees with nests get cut?

7 A. Definitely not.

8 Q. Did more trees than three get cut?

9 A. Yes.

10 Q. How many?

11 A. I figure it was at least four, let's  
12 put it that way. It was more than three.

13 Q. More than three.

14 A. And how much more I would never  
15 bother to count.

16 Q. Was it many more than three?

17 A. I'd have to go -- I wish I could go  
18 back there, I would go back and tell you.

19 Q. In your opinion, should even one  
20 stick nest tree have been cut?

21 A. Well, this is what my intention was.  
22 It doesn't matter if it was three, four, ten, even one,  
23 it shouldn't have been done.

24 Q. Okay.

25 MR. MARTEL: Can you -- and I thought

1 about this last night. We are saying it shouldn't have  
2 occurred, but how does one identify a rookery?

3 We've heard there was a lot of droppings  
4 in an area and so on, it's very white, and I just want  
5 to know, can someone miss a rookery, a whole rookery in  
6 their cutting operation?

7 Is it that significant or that apparent  
8 that it's a rookery that one should not miss the fact  
9 that the rookery is there?

10 THE WITNESS: In the winter months when  
11 all the leaves are gone, the nests of these tall  
12 poplars they're -- you can see them all in the winter  
13 months very plainly.

14 MR. LINDGREN: Mr. Martel, I might add  
15 that there was evidence from Mr. Kapel yesterday that  
16 the Ministry knew of the existence of this rookery  
17 prior to harvest.

18 MADAM CHAIR: Mr. Kapel, was the  
19 harvesting done in the winter?

20 THE WITNESS: Yes, ma'am.

21 MADAM CHAIR: Any other questions, Mr.  
22 Lindgren..

23 MR. LINDGREN: Yes, I have a couple of  
24 brief questions arising out of the issues last  
25 addressed by Ms. Blastorah and that has to do with the



1 Missinaibi River access proposals.

2 Q. Now, Ms. Blastorah referred you to  
3 page 19 of the Proposed Zoning and Policy Options  
4 Document and she read to you the section that said:

5 "As noted above, roads leading to  
6 Brunswick Lake were built by logging  
7 companies. These roads are no longer  
8 required and have been abandoned. In  
9 connection with the logging company, the  
10 Ministry is planning to have the bridges  
11 crossing the Missinaibi/Brunswick Rivers  
12 removed before ice destroys the  
13 structures or before roads become  
14 impassable, making removal more costly  
15 and logistically difficult."

16 Mr. Kapel, I presume -- or did you read  
17 this and rely upon that statement when you completed  
18 the questionnaire?

19 A. Well, I had other literature. I have  
20 letters that were given to me prior to that stating the  
21 same.

22 And what was my interest is, is I started  
23 off a flying operation, I went to road, then they told  
24 me I had to go back to flying. In the past two years I  
25 have been converting my guests, what guests I have

1 left. It's not easy to convert from flying to driving,  
2 but it's very difficult from driving to flying and vice  
3 versa. One doesn't work as good as the other one. And  
4 now they tell me that this may happen.

5 Now, what do I do for this coming season  
6 or what -- when you have a guest parked at the lake and  
7 he sees all kinds of vehicles there, it doesn't make it  
8 very good for me either. What I'm here for is I want  
9 to know what is going to be done so I can tell somebody  
10 at the other end of the county that when he comes here,  
11 how he can get here and if he wants to come anymore.

12 MADAM CHAIR: What do you make, Mr.  
13 Kapel, of the statement in the, first of all, policy  
14 planning document that the roads will continue to be  
15 accessible by the public as long as they are passable,  
16 until they fall apart?

17 Obviously there is some sort of road  
18 access, but if the bridges are removed then you have to  
19 take that into account.

20 THE WITNESS: This is what I've been  
21 told. I have a letter here stating that this will  
22 happen. Now, I have another letter that this might not  
23 happen for 20 years and I have rerouted my guests  
24 already.

25 MADAM CHAIR: So if the draft timber

1 management plan isn't available until December, it  
2 could be some time after that before a final plan is  
3 available, so you won't have any guidance on what to do  
4 in the summer of '91 with your guests?

5 THE WITNESS: Correct. As of now, I will  
6 not promote tourism with this type of planning. I  
7 can't. I tell a guest one year, you have to fly and  
8 the next year you can drive and the next year you have  
9 to fly. He says, tell me one or the other and is it  
10 going to stay that way or not.

11 MADAM CHAIR: Thank you.

12 MR. LINDGREN: Q. Mr. Kapel, when did  
13 you complete your questionnaire on the draft park  
14 policies? Was it before the June 30th deadline?

15 A. Just about a day or two, as a matter  
16 of fact. We did it at the lodge.

17 Q. And this was after the public  
18 meetings in May that were referred to by Ms. Blastorah?

19 A. Yes, I believe so. I think it was  
20 June.

21 Q. If at that time the Ministry was  
22 considering a change in the access proposal, a change  
23 to what appears here, do you believe it would have been  
24 helpful to have that matter brought to your attention  
25 before you completed the questionnaire?

1                   A. Oh, definitely. Even the way I  
2       looked at it, I said: Well, if they're going to make  
3       that type of access at least we should create bigger  
4       boundaries around the lake to give more protection if  
5       that's they case, that they want to do that.

6                   Q. In other words, would your answers to  
7       the questionnaire have been different if you had  
8       learned of the access proposal?

9                   A. Definitely.

10                  Q. The new access proposal?

11                  A. Definitely.

12                  Q. And when did you learn of the new  
13       access proposal after you completed the questionnaire?

14                  A. The day that park council left by  
15       place I was on a -- they were going to town to this  
16       meeting, which I was not aware of, which I could not  
17       attend anyway.

18                  Q. No, my question was, you completed  
19       the questionnaire at or about the time of the deadline,  
20       and then I am asking, how soon after that did you learn  
21       of the new proposal?

22                  A. A couple of days after, I believe, I  
23       sent that.

24                  MADAM CHAIR: Excuse me. Mr. Kapel,  
25       could you just show me again where the Abbott Road is.

1 Does it go right to the lake?

2 THE WITNESS: No, it doesn't go right to  
3 the lake. It goes through here. (indicating)

4 MADAM CHAIR: So if --

5 THE WITNESS: The proposal they wanted,  
6 this here, that Mr. Cassidy -- Ms. Blastorah, that the  
7 wood is to be cut in this area and you can't drive the  
8 logs over here to Kapuskasing River.

9 Now, they want to take the wood all the  
10 way up this way, from this area right here. Do you see  
11 where this stamp is?

12 MADAM CHAIR: Yes.

13 THE WITNESS: They want to go all the way  
14 this way, go around this way, go through here and then  
15 they have to cross this private land here and go all  
16 the way up here into Hearst. (indicating)

17 Right now we have a network of roads down  
18 here which I don't think are all entered yet. They say  
19 this is a shorter way than this way. There is existing  
20 roads here already. (indicating)

21 MADAM CHAIR: But I guess my question is,  
22 if indeed they go ahead and close the CSR 7 and 8 and  
23 they use only this Abbott Road network to the north of  
24 the lake, would your position be that you would feel  
25 you would have to fly in your guests, or would you feel



1       there would still be some many roads and they would  
2       take so long to be abandoned that there would still be  
3       road access?

4                   THE WITNESS:  Yes, that's definitely  
5       true.  There would be no -- it would take years before  
6       them roads would be really deteriorated again.

7                   MR. MARTEL:  Is it a problem of -- you  
8       indicated how that was going to be transported, you are  
9       going to start down here, go way out there and then  
10      wall the way back to Hearst.

11                   If you came up the other side -- but  
12      there is no road there; is that it?

13                   THE WITNESS:  There seem to be roads from  
14      where I am sitting.  There seems to be a fairly  
15      close --

16                   Oh, there's more roads here now, I  
17      believe.

18                   MR. MARTEL:  Is it not possible to go the  
19      other direction?

20                   THE WITNESS:  This is a mining...

21                   MS. BLASTORAH:  Perhaps I could clarify,  
22      Mr. Martel.  When you say the proposal is to go as you  
23      have indicated on the map --

24                   THE WITNESS:  One of the proposals.

25                   MS. BLASTORAH:  One of the proposals.

1 And those are the ones set out in this summary of  
2 proposed crossings. Thank you.

3 MR. MARTEL: Okay. Which is which one,  
4 Ms. Blastorah?

5 THE WITNESS: It's the favourable  
6 proposal.

7 MR. MARTEL: Going to this side?  
8 (indicating)

9 MS. BLASTORAH: I believe it's C, Mr.  
10 Martel.

11 MR. MARTEL: Yes. That's the Abbott --  
12 going along the Abbott Road--

13 THE WITNESS: Correct.

14 MR. MARTEL: --is the preferred?

15 MS. BLASTORAH: Correct.

16 ---Discussion off the record

17 MS. BLASTORAH: I believe there is more  
18 than one preferred option.

19 MR. MARTEL: There is more than one  
20 preferred option.

21 Do any of the preferred options stay away  
22 from Mr. Kapel's problem?

23 Mr. Kapel, do any of them satisfy? Which  
24 of these do you find must most favourable?

25 THE WITNESS: The crossing at the bottom.

1 MR. MARTEL: Which would stay away from  
2 your --

3 THE WITNESS: It would give the park more  
4 protection.

5 MADAM CHAIR: But is that listed in any  
6 of these options?

7 THE WITNESS: I believe in one of the --  
8 it will be...

9 MS. BLASTORAH: Is it D, Mr. Kapel?

10 THE WITNESS: B is --

11 MS. BLASTORAH: D like dog.

12 THE WITNESS: By the Fire River crossing  
13 there? Is there one there?

14 MS. BLASTORAH: Maybe you could just  
15 check crossing proposal D like dog.

16 MR. MARTEL: Fire River is, yes, D.

17 MR. CASSIDY: There is a number of  
18 questions that arise out of your questions, Mr. Martel,  
19 and one of which is I am advised that would require a  
20 new crossing to cross the very park we are trying to  
21 protect.

22 MR. MARTEL: I'm only trying to get at --  
23 Mr. Cassidy, I can't understand all the options. I  
24 mean, we just looked at this and it's rather difficult  
25 to -- we don't have staff at night who go over this

1 with us, I'm afraid, and so it's a little difficult to  
2 try and get a handle on which one of these are the  
3 most -- could be most beneficial to everybody involved.  
4 That's all I am trying to get at.

5 MR. CASSIDY: I appreciate that, sir.

6 MADAM CHAIR: But at the same time, Mr.  
7 Kapel, I think it is helpful that you told us your  
8 preference is crossing D, but the issue still remains  
9 that even if the CSR roads are crossed down, they are  
10 going to be passable for years and so that's of more  
11 immediate concern even than the new network of roads.

12 THE WITNESS: I'm back to where I started  
13 all over again.

14 MR. MARTEL: Even with D?

15 THE WITNESS: D would be -- no, with  
16 Erikson Township, then they wouldn't be only crossing  
17 the park at 122 metres.

18 MADAM CHAIR: But the point is that  
19 regardless of what's decided in the timber management  
20 plan and what new road network they might want to use,  
21 you are still stuck with two abandoned roads that are  
22 passable for access for many year to come?

23 THE WITNESS: Definitely.

24 MR. MARTEL: But if you went to deroute,  
25 could you eliminate those other roads, I guess is what

1 I am trying to find out?

2 THE WITNESS: The whole thing is, as you  
3 read here in the -- back here, it says they're planning  
4 to remove the bridges.

5 MR. MARTEL: Right. What I am trying to  
6 get at is, if you go the route that you are suggesting,  
7 does that resolve your problem, the bridges are  
8 removed, or do you still have to use those?

9 THE WITNESS: No. I can tell me guests,  
10 let's fly strictly, not drive and boat.

11 MR. MARTEL: So for you D is -- some  
12 people are shaking their heads as I am here trying to  
13 get this out. Maybe I am the only one that's confused.  
14 I'm not sure I am, though.

15 Maybe I am, but I'm trying to get at  
16 which of these options would meet your requirements and  
17 the company's requirements and MNR's. What you are  
18 saying is that D would do it, but it is not the  
19 preferred alternative.

20 THE WITNESS: That's what they say.

21 MR. MARTEL: That's what they say. For  
22 you it would be?

23 THE WITNESS: Yes.

24 MR. MARTEL: For --

25 THE WITNESS: I expressed my opinion of



1       that.

2                   MR. MARTEL: That's what I'm trying to  
3       get at.

4                   MADAM CHAIR: Mr. Lindgren?

5                   MR. LINDGREN: One final question, Madam  
6       Chair, arising out of this discussion.

7                   Q. I think there has been an indication  
8       from Ms. Blastorah that the Ministry's preferred option  
9       is crossing C.

10                  MS. BLASTORAH: I think I said there was  
11       more than one preferred option.

12                  MR. LINDGREN: Q. In any event, Mr.  
13       Kapel, you have indicated that your preference would be  
14       for crossing D?

15                  MS. BLASTORAH: I'm sorry, I should  
16       correct that, Mr. Lindgren. I am advised -- and this  
17       arose out of a question put to me by Mr. Martel.

18                  I am advised that the Ministry has not  
19       stated its preferred option--

20                  THE WITNESS: Why?

21                  MS. BLASTORAH: --and that would be  
22       because this is the -- the Ministry in terms of the  
23       timber management planning team and that's because  
24       these options are contained in the park management  
25       plan -- I'm sorry, let me get this straight before I

1       answer this.

2                   THE WITNESS: I was told...

3                   MS. BLASTORAH: Now I understand.

4       Perhaps I can explain this. I'm sorry, Mr. Martel and  
5       Mr. Lindgren. I didn't know this was going to come up.

6                   It is my information that these are  
7       proposals that are put forward in the timber management  
8       plan being prepared by Spruce Falls, so these are  
9       proposals put forward by the company. The company, I  
10      believe, has indicated their several or more than one  
11      preferred options.

12                  The Ministry will review this plan. The  
13      draft plan review stage has not been reached yet, so  
14      the Ministry has not yet indicated its preference.  
15      These preferences that I referred to are those of the  
16      Spruce Falls Power and Paper Company. That's my  
17      information.

18                  MR. LINDGREN: Q. Mr. Kapel, my final  
19      question is this: If I understand this evidence  
20      correctly, your preference is not to have the existing  
21      access road and bridge over the Missinaibi maintained?  
22      That's your preference, to remove it?

23                  A. Yeah, but I was told that preference  
24      already by a written letter in the past years, so I  
25      have been operating my business through it. The last

1 verbal we've had over the bridge was, the most  
2 favourable one for the crossing was that crossing.

3 Q. Mr. Kapel, based on the fact that  
4 that has been told to you for the last several years  
5 and based on your experience with the timber management  
6 planning process and the open house process, do you  
7 expect that your preference will, in fact, be the one  
8 that's preferred and approved under the new timber  
9 management plan?

10 A. Well, I've raised my concern which  
11 would affect me. If it's not, I guess I -- as of now I  
12 refuse to promote tourism in northern Ontario with this  
13 type of plan.

14 I can't see me doing any promotion for a  
15 tourist outfitter. It's so obvious, if you'd just read  
16 here, that I was issued some news clippings here that  
17 tourism is wanted in the Kapuskasing area.

18 As a matter of fact, there is one that  
19 says here that the Mayor of the city -- when I first  
20 started, Mr. Ted Jules -- I September Mr. Ted Jules a  
21 letter personally stated to him that I will be opening  
22 a tourist outfitter in the Kapuskasing area and would  
23 be using Kap as a supply, and I had not received a  
24 reply.

25 His reply is -- there are comments here

1 about tourism, that every road has to be opened for  
2 tourist people to come. I think it's just -- for him  
3 it's like a political -- you know, he is looking for  
4 political clout.

5 Also, there is another one I would like  
6 to speak to. Mr. Lightheart, former -- the past  
7 district manager of Spruce Falls.

8 MR. LINDGREN: Madam Chair, Mr. Kapel is  
9 reading from Exhibit 1492.

10 THE WITNESS: He states here that:

11 "Frequently asks us anglers, what are you  
12 doing on my lake, told them to leave."

13 I never told anybody such a thing. This  
14 is a free county, you can go on any lake. The only  
15 thing I told these people is that when I was ripping  
16 down this camp that belonged to Spruce Falls I had no  
17 fire insurance for this camp and I was ripping it down,  
18 and a group of fellows came and parked right there as I  
19 had all my material already. They set up camp and lit  
20 a big bomb fire.

21 I had a work permit issued by the  
22 Ministry of Natural Resources for this building to be  
23 removed, and I went there politely and I told these  
24 fellas that they would have to leave the property, I  
25 didn't want no fires around.

1                    Obviously, they want back to town and  
2                    they told the Ministry that I told them to get off the  
3                    lake. This is what this is.

4                    Also, in the Kap area, I have been  
5                    accused for transporting fish, selling it commercially.  
6                    There are prominent people who have been -- their  
7                    airplanes have been checked over on the airport.

8                    Also, I have been sent the RCMP to my  
9                    place for a radio licence, operating a telephone radio  
10                   without a licence, which is not true.

11                   Also, I have been charged -- not charged,  
12                   but accused of flying with my airplane trying to hit  
13                   people, which was not true. My airplane did not move.

14                   Also, my freezer and fridge are  
15                   constantly, for about two weeks to a month, two to  
16                   three times a day inspected by the Ministry.

17                   So you can see obviously what kind of  
18                   harassment I have been putting up with. These  
19                   statements in the paper that are presented to me are of  
20                   bad taste.

21                   And there's -- and also, may I inquire  
22                   that at one time we had people come to our place on the  
23                   dock and threatened to burn us out. These people are  
24                   all registered with the Ontario Provincial Police who  
25                   went and visited them all one by one. For no reason



1       whatsoever.

2                       MR. LINDGREN: I have no further  
3       questions, Madam Chair.

4                       MADAM CHAIR: All right.

5                       Mr. Kapel, thank you very much.

6                       THE WITNESS: I thank you for listening  
7       to me.

8                       MADAM CHAIR: For preparing your  
9       submission and coming to talk to the Board. We  
10      appreciate it. And, Mrs. Kapel, thank you.

11                      Mr. Lindgren, it's a quarter after ten,  
12      do you want to have the morning break while you allow  
13      Mr. Nixon to start?

14                      MR. LINDGREN: That would be very  
15      helpful, Madam Chair.

16                      Thank you.

17      ---Recess taken at 10:15 a.m.

18      ---On resuming at 10:45 a.m.

19                      MADAM CHAIR: Please be seated.

20                      Hello, Mr. Nixon.

21                      THE WITNESS: Good morning.

22                      MR. LINDGREN: Thank you, Madam Chair.

23                      Mr. Nixon's evidence is found at Tab 4 of  
24      Exhibit 1433A and his supporting documents are found in  
25      the appendices at Tab 4 in the source book.

1                   Now, there are no previous exhibits in  
2                   this hearing relating to this evidence, except perhaps  
3                   for the northeastern strategic land use plan which was  
4                   marked as Exhibit 8. I didn't ask Mr. Pascoe to bring  
5                   it forward, but I understand Mr. Nixon might refer to  
6                   it.

7                   MADAM CHAIR: All right.

8                   MR. LINDGREN: And the next thing I would  
9                   like to do is file a package of interrogatories  
10                  relating to Mr. Nixon's evidence. I will describe them  
11                  in a moment, Madam Chair. (handed)

12                  MADAM CHAIR: Thank you. That will be  
13                  Exhibit No. 1502.

14                  MR. LINDGREN: Thank you. This page  
15                  contains the interrogatories from the OFIA, question  
16                  No. 2, 4 and 5; from the OFAH, questions 3, 4, 5, 6 and  
17                  7; and from the MNR, No. 4, 5, 7, 8, 13 and 14.

18                  MADAM CHAIR: Thank you.

19                  ---EXHIBIT NO. 1502: OFIA interrogatory question  
20                                       Nos. 2, 4 and 5; OFAH question  
21                                       Nos. 3-7; MNR question Nos. 4, 5,  
22                                       7, 8, 13 and 14.

22                  MR. LINDGREN: Madam Chair, perhaps Mr.  
23                  Nixon could be sworn.

24                         GEORGE NIXON, Sworn

25                  MR. LINDGREN: Good morning, Mr. Nixon, I

1 am glad that you could make it.

2 MR. NIXON: Thank you. Good morning.

3 DIRECT EXAMINATION BY MR. LINDGREN:

4 Q. I understand that you are a tourist  
5 outfitter?

6 A. Yes, I am.

7 Q. And I also understand that you own  
8 and operate Megisan Lake outfitters; is that correct?

9 A. That's correct.

10 Q. Perhaps you can describe to the Board  
11 when that operation was established and what did you  
12 acquire it, and perhaps you can also indicate where it  
13 is located?

14 A. Yes. Megisan Lake lodge or Megisan  
15 lake camp was established back in the early 50's as a  
16 fly-in resort utilizing air service in Sault Saint  
17 Marie. It's actually located about 70 air miles  
18 northeast of Sault Ste. Marie. Unfortunately, this map  
19 doesn't do much justice, but here is the Sault and  
20 Megisan Lake is actually marked here. It is  
21 approximately here. (indicating)

22 I purchased the camp in May of -- well,  
23 actually March of '73. I've been in the business for  
24 17 years. That area is unique in that we operate in  
25 basically three MNR districts. The camp is located in

1 the northeast portion of the Sault Ste. Marie District  
2 and directly north of the Carton Township which is  
3 where the lodge is located, the Chapleau District, and  
4 then south and east of Megisan Lake is the Blind River  
5 District.

6 The other unique factor of this area is  
7 that it is an all trout fishery, lake trout and speckle  
8 trout. And also, as stated by our MTR tourist  
9 representative, John Payne, in Sault Ste. Marie, it is  
10 the last remote area for tourism in the Sault Ste.  
11 Marie District, which, of course, is why I'm involved  
12 in these hearings, to try and protect it as that.

13 Q. How do your guests presently get to  
14 Megisan Lake lodge?

15 A. Presently, like, all guests are flown  
16 in. All my clients fly in from Sault Ste. Marie,  
17 utilizing an air service there. 90 per cent,  
18 approximately, fly in with this air service and another  
19 5 per cent fly in with their own aircraft.

20 Q. Can you describe why you decided to  
21 purchase this particular lodge?

22 A. Well, it's a long story. It goes  
23 back to my school days and, I guess, my childhood days.  
24 I've always loved fishing and hunting and my father had  
25 taken me fishing and hunting in the Scugog area.

1 Basically, I was born and raised in Toronto.

2 After graduating out of college in the  
3 data processing field, and I worked in that industry  
4 for five years, I decided that a career change was in  
5 order and I thought that my goal or role in life was to  
6 make people happy and the tourism business was  
7 available and I flew up to look at the area and decided  
8 that this was my next career.

9 Q. Can you generally describe the  
10 Megisan Lake area in terms of the surrounding  
11 topography?

12 A. Well, Megisan Lake is approximately  
13 1,700 feet above sea level, whereas, if you can relate,  
14 Toronto is about 6-, 700 feet and Sault Ste. Marie is  
15 approximately 700 feet above sea level. So it's very  
16 hilly, hills up to 200 feet above ground.

17 The types of trees. There's old growth  
18 forest. What I consider old growth forest which we can  
19 describe later in a report that I had prepared.

20 Q. What species are you referring to  
21 there?

22 A. Old growth white pine, there is jack  
23 pine in the area, black spruce, balsam fir, birch.  
24 It's a forest that is very unique. It has not been  
25 logged previously, as stated by the forest ecologist



1       that we had in there to do a survey, and I feel that it  
2       should be protected.

3                   Q.   What species of wildlife would one  
4       expect to see in the area?

5                   A.   Well, we also -- although hunting is  
6       not the main source of our business, we do run various  
7       hunting packages for big game, which is black bear and  
8       moose.  There are also beaver, mink, otter, lynx,  
9       various songbirds, great blue heron, great horn owls,  
10      eagles in the area.  I was fortunate enough to see the  
11      first eagle on Megisan Lake this fall, and obviously  
12      with that is osprey as well.

13                  Q.   Are you referring to a bald eagle?

14                  A.   Yes.

15                  Q.   Now, Mr. Nixon, can I ask you whether  
16      or not you are opposed to all forms of logging?

17                  A.   No, I'm not opposed to all forms of  
18      logging, but I think what we need here is proper  
19      management of the logging activities and that the  
20      concerns of the tourism business should - especially  
21      remote tourism - should be considered not only for the  
22      economic value, but the value to the client and society  
23      as a whole and I think these values have been  
24      overlooked.

25                  Q.   Is that why you advocate the setting

1       aside of reserves for tourism purposes?

2                   A. Yes, sir.

3                   Q. And, in your opinion, is setting  
4       aside reserve for tourism purposes an example of single  
5       purpose use of Crown land?

6                   A. I'm sorry, could you repeat that?

7                   Q. I'm just wondering whether or not in  
8       your view the setting aside of reserve for tourism  
9       purposes, is that an example of single purpose use of  
10      Crown land?

11                  A. Well, no, I don't think it is a  
12      single purpose use.

13                  Q. Why not?

14                  A. Well, because various users other  
15      than tourism are utilizing that area; bird watchers, it  
16      is not just for fishing and hunting, research by  
17      ministries on the old growth forests and also  
18      educational purposes for our youth who haven't  
19      experienced a trip of this sort and experienced a  
20      fly-in wilderness vacation or actually seen  
21      250-year-old trees that are up to 150 feet high.

22                  These ecosystems are very valuable not  
23      just to the tourism market, but to the general public.

24                  Q. In paragraphs 4 and 5 of your witness  
25      statement, you make the statement that your operation

1 is dependent on the continued existence of natural  
2 wilderness and you believe that the forest must be  
3 protect against timber management activities which  
4 damage or destroy wildlife habitat, fisheries and the  
5 natural environment in general.

6 Then continuing on to paragraph 5, you  
7 believe that the proposed timber management activities  
8 in the Megisan Lake area will adversely affect our  
9 tourism operations and will ultimately force us out of  
10 business.

11 What did you mean by those comments?

12 A. Well, along with forest activities or  
13 the current one that is being proposed for the  
14 northeastern portion of the Sault Ste. Marie District,  
15 in my feeling, does not allow for the continual use of  
16 that area as a remote tourism establishment.

17 The buffer zones that are allocated for  
18 the area are grossly out of whack and I have been  
19 informed by numerous guests that they would not  
20 patronize an establishment of that sort if the  
21 clearcutting and road allocations, et cetera, et  
22 cetera, were allowed to happen and remote tourism would  
23 be lost in that area. The last remaining tourism would  
24 be lost for the Sault Ste. Marie District.

25 Q. Now, in your witness statement you

1 have made comments about the contribution of the  
2 tourism industry to the economy, and in particular I am  
3 referring to particular paragraph 8 of your witness  
4 statement where you indicate that the rationale for  
5 your request of reserves - and we will get to that in a  
6 minute - but the rationale was that the tourism  
7 industry made a contribution to the economy at least  
8 equal to that of the forest industry.

9 Now, you were asked an interrogatory on  
10 that comment and this is OFAH question No. 4. Do you  
11 have that interrogatory, Mr. Nixon? It's question No.  
12 4 from the OFAH.

13 MR. MARTEL: OFAH?

14 MR. LINDGREN: OFAH. There the OFAH  
15 asked for you to provide details of your estimates to  
16 support that statement and you provided a rather  
17 lengthy answer and you have also attached some  
18 documents to that.

19 Could you very briefly summarize for the  
20 Board what you mean when you say that the tourism  
21 industry makes an important, if not equal, contribution  
22 to the economy?

23 A. Well, I would like to refer the Board  
24 to the economic impact of remote tourism industry in  
25 north Algoma. It's quite a lengthy report prepared by

1 economic or a research company and the Ministry of  
2 Tourism and Recreation.

3 MR. LINDGREN: Madam Chair, perhaps we  
4 could stop right here. This is the study that Mr.  
5 Nixon was referring to and it was provided to the  
6 parties during the interrogatory process.

7 It is not attached to question No. 4 here  
8 because I did not see a need in reproducing it again  
9 for the parties, but I do have extra copies if the  
10 parties did not bring it with them. In fact, I was  
11 going to suggest that we mark this as a separate  
12 exhibit.

13 MADAM CHAIR: All right, Mr. Lindgren.  
14 That will be Exhibit 1503.

15 MR. LINDGREN: It's a document entitled  
16 Economic Impact of the Remote Tourism Industry, North  
17 Algoma, and it is dated March 5th, 1990 and it is  
18 prepared by Econometric Research Limited and the  
19 Ministry of Tourism and Recreation.

20 ---EXHIBIT NO. 1503: Document entitled Economic Impact  
21 of the Remote Tourism Industry,  
22 North Algoma, dated March 5th,  
23 1990, prepared by Econometric  
Research Limited and the Ministry  
of Tourism and Recreation.

24 MADAM CHAIR: Thank you. And you just  
25 put the cover page in the interrogatories?



1 MR. LINDGREN: That's correct. During  
2 the responses to the original interrogatories the full  
3 document was provided to the parties.

4 MADAM CHAIR: How many pages is this  
5 document, Mr. Lindgren?

6 MR. LINDGREN: I will have to undertake  
7 to count them, I haven't actually counted them. I  
8 don't think they are numbered.

9 MADAM CHAIR: All right.

10 MR. LINDGREN: Q. Mr. Nixon, you were  
11 about to refer to this document. Are there any  
12 statements in this document that you would like to draw  
13 the Board's attention to?

14 A. Yes, there are. On the introduction  
15 part, second paragraph.

16 Q. And you are on page 1?

17 A. Yes. The relationship to logging  
18 activities, that opening statement says:

19 "The increased public access is likely to  
20 lead to a loss in tourism value of these  
21 areas."

22 And further on down the paragraph:

23 "Some of the forest activities have come  
24 as close as 30 metres from lakes. The  
25 profitablity of the fly-in activity is

1                   likely to suffer first and most as access  
2                   through roads will render this activity  
3                   obsolete and unnecessary" which supports  
4 my views on the area in question in the Sault District.

5                   The third paragraph:

6                   "Protection and the preservation of these  
7                   areas have their rationale, economic  
8                   and non-economic factors. Where the  
9                   non-economic factors have been identified  
10                  and appreciated, the economic worth of  
11                  remote tourism and the contribution it  
12                  makes in the local economies of the  
13                  region in the province have not been  
14                  totally identified or appreciated."

15                  This report goes on, of course, and  
16 explains what was done.

17                  And referring to the conclusions, which  
18 is actually page 12, I would like the Board to be  
19 familiar with this study, the last paragraph:

20                  "This study has shown that tourism does  
21                  indeed provide some significant economic  
22                  benefits in addition to the primary  
23                  benefits of preserving the wilderness  
24                  and scenic beauty of the province."

25                  I'm claiming that, you know, the forest

1 industry does not provide this.

2 Q. Does not provide what?

3 A. The preservation of the forest, of  
4 the natural forest.

5 Q. Now, while we are on the subject of  
6 tourism, can you advise me whether or not the Sault  
7 Ste. Marie District presently has a tourism strategy?

8 A. As of October of this year, the Sault  
9 District, to my knowledge, has no tourism strategy;  
10 whereas other districts, other districts within the  
11 province do have a tourism strategy in place.

12 Q. To your knowledge, did the Sault Ste.  
13 Marie engage in a process designed to come up with a  
14 tourism strategy?

15 A. I was consulted back in November of  
16 '87 by Mr. Barney Smith to explain my feelings and what  
17 I thought would be a viable tourism strategy, and to  
18 date nothing has transpired.

19 Q. Is Mr. Smith an employee of the  
20 Ministry of Natural Resources?

21 A. He was, I don't believe he is now. I  
22 think he's on loan or he's working for the federal  
23 forestry department.

24 Q. Does the lack of a tourism strategy  
25 in the Sault Ste. Marie District concern you?

1 A. Yes, it does.

2 Q. Why is that?

3 A. It concerns me that our tourism  
4 concerns could have been brought forward way back in  
5 the 80's and the concerns of remote tourism could have  
6 been expanded upon and more consultation could have  
7 happened between MNR and tourist outfitters. If this  
8 communication had have started in some sort of  
9 strategic plan being implemented, then maybe we  
10 wouldn't be in the situation we are now, and I think  
11 it's necessary, this strategy to be put in place.

12 \_ The current -- my feeling is that the  
13 current feeling by the MNR is that forestry comes  
14 first, timber extraction and mining and tourism values  
15 are at the bottom of the totem pole and I would like to  
16 know how this hierarchy was started and why aren't  
17 we -- why aren't other users of the resource in other  
18 ministries, meaning the Ministry of Tourism, why aren't  
19 they given equal opportunity to compete for the  
20 resource.

21 MR. MARTEL: Hasn't the City of Sault  
22 Ste. Marie over the years, in fact in the last seven or  
23 eight years been attempting to promote in a very  
24 significant way tourism as one of the solutions to the  
25 economic depression that's in that area?

1                   THE WITNESS: Exactly. If I may expand  
2                   on that. One of the top businessmen in Sault Ste.  
3                   Marie, who happens to own the Water Tower Inn, he also  
4                   owns the ski hill in Searchmont, which is a little bit  
5                   north of the Sault, and what they are trying to do is  
6                   promote winter tourism.

7                   In fact, I believe they are holding a  
8                   winter carnival, not the Bonne Sault carnival, but it  
9                   is called Winter Cities and people from all over the  
10                  world are coming to this conference and there's a very,  
11                  very large push on this type of tourism, just to, as  
12                  you said, bring up the economic situation in that  
13                  district.

14                  So tourism, I think, in that area is No.  
15                  1 as far as economic growth, especially if we look in  
16                  the next 20 years from now, what the value of tourism  
17                  is compared to these other industries.

18                  I might add that on my own promotions in  
19                  October of this -- well, this month here, 1990, I  
20                  attended a Canadian workshop here in Toronto and it was  
21                  sponsored by Ministry of Tourism and Recreation and  
22                  Canadian Airlines and what they were attempting to do  
23                  was to bring over approximately 30 buyers, 30  
24                  wholesalers from Europe from 10 different countries in  
25                  Europe in aid of promoting tourism not just in the



1 Toronto area, but all over the north, and I was one of  
2 the people invite to this marketplace.

3 Out of the 32 buyers, 22 major contacts  
4 with wholesalers from across Europe and the main thing  
5 that they are requesting is adventure travel, adventure  
6 tourism. And, of course, the Sault Ste. Marie being so  
7 close to the Toronto Airport international flights,  
8 it's prime. It's a prime development area for tourism,  
9 to share both the Toronto and the big city experience  
10 and this remoteness. This is the way MTR is promoting  
11 this province, adventure travel.

12 I have attended shows in Europe over the  
13 last three years and my wife and I are attending three  
14 shows starting in mid November. It's the Frankfurt  
15 marketplace in Frankfurt, Germany; world travel market  
16 in London, England; and Atilia in Paris, France.

17 Again, they want the public -- the  
18 European person wants to come to Canada and experience  
19 this type of vacation because I think we all know that  
20 they don't have it anymore, the Europeans, they've lost  
21 it. The black forest is depleted. The over-population  
22 of various countries.

23 You know, history has shown that the  
24 Swedes, the Finns, the Brits, they have all in some  
25 former fashion hunted or fished or experienced some

1 sort of wilderness and they don't have it and they are  
2 coming to Canada to experience this.

3 So I think it's a very important factor,  
4 as Mr. Martel said, that the Sault area, the City of  
5 Sault Ste. Marie is becoming very dependent on tourism.

6 MR. LINDGREN: Q. I would like to move  
7 now to your involvement in the timber management  
8 planning process and where you are in that process.

9 Perhaps before I do that I can ask you to  
10 identify this map which has been prepared by the  
11 Ministry of Natural Resources.

12 Madam Chair, this should be marked as the  
13 next exhibit.

14 MADAM CHAIR: Exhibit, 1504.

15 MR. LINDGREN: Madam Chair, this is  
16 identified as a forest stand map for Ewen Township and  
17 Carton Township.

18 MADAM CHAIR: For Ewing?

19 MR. LINDGREN: Ewen.

20 MADAM CHAIR: Can you spell that, please.

21 MR. LINDGREN: E-w-e-n, and Carton  
22 Township. There is no indication when this actual map  
23 was prepared, but it is based on the 1985 inventory.

24 ---EXHIBIT NO. 1504: Forest stand map for Ewen  
25 Township and Carton Township.

1 MR. LINDGREN: Q. Mr. Nixon, perhaps you  
2 can show the Board where your lodge is located and  
3 describe the general area?

4 A. As you can see, here is Megisan Lake  
5 and our property is locate on the island, centrally  
6 located in the middle of the lake. We actually drop  
7 into Ewen Township. This is Ewen Township and this is  
8 Carton Township.

9 We utilize the lake directly to the west  
10 of Affleck Lake which we have been granted a land use  
11 permit for the development of an outpost camp there.

12 There are various small lakes and streams  
13 that are utilized by my business for fishing and  
14 hunting to the north, and the lakes to the west and the  
15 lakes going over to the east, and this is the Township  
16 of Border, I may add, which is approximately two miles  
17 to the east and possibly three miles over to the west.

18 Q. Is that Sault Ste. Marie District  
19 that we are looking at?

20 A. Yes, this is the Sault Ste. Marie  
21 District.

22 Q. And you've also indicated you also  
23 operate within Chapleau and Blind River Districts.  
24 Where are they roughly in relation to what we are  
25 seeing here?

1                   A. The Chapleau District would be above  
2     Carton Township which is a township above Gord Lake  
3     which is also an outpost camp used by the air service  
4     that I charter, Ontario Wilderness Vacations. They  
5     have an outpost here and I operate -- I have an outpost  
6     camp in the Chapleau District which is again, as I  
7     said, it's over into the next two townships. I believe  
8     it is described in the report of the amount of the  
9     buffer zone that I had originally requested -- or  
10    tourism operators had originally requested.

11                   This is on a lake called Nishatagani Lake  
12    and I also operate bear management units in both -- in  
13    all three districts, the Sault Ste. Marie District, the  
14    Chapleau District and the Blind River District, and  
15    these bear management units, we have to pay for them.  
16    The tourist outfitter have to lease these bear  
17    management units from the MNR.

18                   I am operating in the three districts not  
19    only for fishing, but also for hunting. The Blind  
20    River District, I do not have any outpost camps in that  
21    area, but I travel that area extensively with my  
22    fishermen.

23                   And basically the European people, they  
24    are not interested in fishing and hunting, they are  
25    interested in exploring and it makes our business so



1 much easier when we don't have to be pressured by how  
2 many fish a fisherman wants to catch or how much game a  
3 hunter wants to shoot. We take these Europeans on  
4 these excursions to show them these old growth forests  
5 and to show them the various other wildlife. And  
6 instead of shooting the animals with a gun, they shoot  
7 them with a camera and this is a new type of remote  
8 tourism that is available to operators like myself.

9 So I'm using all three districts for my  
10 business. As you can see, they are very close  
11 together. The three districts are right out my back  
12 door and I think that this is not or was not being  
13 considered when these timber management plans were  
14 designed.

15 They didn't -- some of the districts;  
16 namely, the Chapleau District and the Blind River  
17 District didn't even know I existed up in that  
18 northeastern portion of the Sault area and until we  
19 started making some noise about the practices of the  
20 timber management plans and the logging activities,  
21 then they started taking notice of the values of that  
22 area to remote tourism.

23 Q. So have you had to respond to the  
24 proposed timber management plans for all three  
25 districts?



1                   A. Yes. I've been involved in the Blind  
2 River District whose timber management plan is the same  
3 as the Sault's, 1990 to '95. Chapleau's is, I believe,  
4 '92 to '97. As you can see, all these three districts  
5 are developing a plan, I believe, correct me if I'm  
6 wrong, anybody from the MNR, but I believe they're  
7 trying to change these plans so that they don't all  
8 come together at the same time, and I believe they are  
9 trying to have separate dates, at least a year apart so  
10 that there is enough time that partees can get together  
11 and discuss the new plans.

12                   Q. And do any of these plans propose  
13 timber management activities in the areas used by you  
14 or other outfitters?

15                   A. Well, yes. I guess we could start  
16 with the one that is proposed in the Sault Ste. Marie  
17 District and they are shown here. The five-year plan  
18 for these two townships, they are basically in the area  
19 that I operate in.

20                   Q. Can you describe what the green on  
21 the map indicates?

22                   A. Okay. The slash drain areas are  
23 partial cutting, which I would imagine would be  
24 selective clearcutting. All the green areas on the map  
25 indicate clearcutting areas.

1                   You will see a buffer zone allocated  
2                   marked by these green lines that are allocated  
3                   secondary road corridors, which, as you see -- in this  
4                   corridor, the next township is called Sherratt Township  
5                   which is also included in this timber management plan  
6                   for the next five years.

7                   The primary road, which has a life  
8                   expectancy of 20 years plus, which is already in place,  
9                   comes up at the eastern portion of that township. So  
10                  if you can imagine a primary road coming here and off  
11                  of this primary road will come this secondary road  
12                  corridor cutting through here, and then off of this  
13                  secondary road corridor, which have not been identified  
14                  on this map and I understand that they don't become  
15                  identified until they start -- or prior to cutting  
16                  practices, are tertiary roads.

17                  So, as you can see, not only the  
18                  secondary roads, but tertiary roads will come off of  
19                  this secondary road and, as I've explained to the  
20                  district manager, will create a spider web effect and  
21                  you can see the spider web effect on the short video  
22                  that I prepared of cutting practices in the Sault  
23                  District and Blind River district.

24                  Q. I would like to --

25                  A. Just to explain this a little

1 further. The orange areas are marking out tourism  
2 areas of concern and there are various prescriptions,  
3 like 60 metre buffer zones around various lakes  
4 concerns, you can see these here, and also the larger  
5 areas are called moose hotels and I feel that's  
6 something to be desired.

7 I would like to know the occupancy rate  
8 of that hotel, but the Ministry expects the moose after  
9 logging operations or while they are being cut and  
10 while the new growth is growing that the moose are  
11 going to come back to these spots that they've  
12 allocated as moose hotels which are not -- I can't be  
13 quoted on the exact size, but, you know, they're maybe  
14 a hundred acres, but again I can't be quoted.

15 This is where the MNR feels the moose  
16 will reside after the cutting has taken place. I guess  
17 that basically outlines this map.

18 MADAM CHAIR: Mr. Nixon, are the lines on  
19 the bottom part of the map existing roads?

20 THE WITNESS: These here? (indicating)

21 MADAM CHAIR: Yes.

22 THE WITNESS: Yes. This is an existing  
23 fire road that has been in place for a number of years.  
24 This corridor, this purple corridor, again, is another  
25 proposed primary road, I believe. Yes, it's a primary

1 road corridor down in the bottom end of Ewen Township  
2 that will be used to extract timber in this area and  
3 this is called -- this system here is called the west  
4 Aubididon River system which is a canoe route, an  
5 existing canoe route used my various canoeists.

6 MR. LINDGREN: Q. Is it --

7 MADAM CHAIR: Excuse you, Mr. Lindgren.  
8 How far from Megisan Lake is the closest existing road?

9 THE WITNESS: Well, here is the island.  
10 I would say it's approximately -- here is an access  
11 point here. That is approximately, by boat, two and a  
12 half miles by boat. In other words, you could land  
13 here and they have landed here and the general public  
14 has motorized up Torrens Lake, it's called Torrens  
15 Lake, portaged and into Megisan Lake.

16 MADAM CHAIR: But given the existing road  
17 of being two and a half miles away, is that a buffer  
18 that protects the--

19 THE WITNESS: No.

20 MADAM CHAIR: --accessibility of your  
21 lake? It's not?

22 THE WITNESS: No, it's not. It's not  
23 sufficient, in my view, and I have argued since 1973 to  
24 have this road taken out for the protection of the  
25 remote tourism values, not for the purpose of saying



1 that it is my lake, it is for my guests only because  
2 the area is still accessible by a canoe. The general  
3 public or anybody can access this river system by two  
4 other access points called the Gong Lake access point,  
5 which is immediately south of this area, Ranger Lake  
6 area. They portage in, they can start this canoe route  
7 from two or three access points.

8 As of this year, 1990 -- if I may add,  
9 this canoe route is a loop. You will see it comes up  
10 the West Aubinadong River through Megisan Lake, it  
11 trails or cut through here and they go into the  
12 Chapleau District and it carries down another river  
13 called the Missatobing River and then it comes back  
14 around. It goes in a loop like this. (indicating)

15 Since the timber activities in the Blind  
16 River District, the two townships which I have -- are  
17 listed as a designation in my request, the cutting  
18 practices there, and they now have immediate access off  
19 the primary road in that Blind River District which,  
20 again, gives additional access to the area for  
21 canoeists and the local people.

22 So, therefore, I would ask that, you  
23 know, this road be taken out. The MNR has said: Well,  
24 we are going to leave it there and let natural causes  
25 take over, but for 17 years it is still being used.



1 MS. BLASTORAH: Mr. Nixon, could I just  
2 ask you to read off the scale of the scale of the map.  
3 I can't see it from here. Is it on there? That is a  
4 1:15,840 map.

5 THE WITNESS: Do you want me to mark it  
6 on there?

7 MS. BLASTORAH: No, I am advised it is  
8 four inches to a mile. That's fine. Thank you. I  
9 couldn't see from here. Thank you.

10 MADAM CHAIR: Mr. Lindgren.

11 MR. LINDGREN: Q. The canoe route that  
12 you've referred to, Mr. Nixon, is that an MNR  
13 designated canoe route?

14 A. Yes, it is.

15 Q. I would like to turn to your  
16 involvement in the Sault Ste. Marie timber management  
17 planning process and I would start by referring to  
18 paragraph 6 of your witness statement.

19 There, in the third sentence, we find an  
20 indication that in the past 17 years you have travelled  
21 the Megisan Lake area quite extensively and you have  
22 acquired quite a bit of knowledge of the areas, values  
23 and features, and until very recently you hadn't been  
24 asked to contribute to or participate in the timber  
25 management planning process.

1                   On the next page you indicate that you  
2                   spent six months of the year in the bush but you have  
3                   yet to see an MNR biologist in the field.

4                   I am wondering why you made those  
5                   comments. Do those facts concern you?

6                   A. Well, they concern me in the fact  
7                   that I feel a proper inventory of the area and its  
8                   values have not been -- taken place and, as I say, I'm  
9                   basically the resident person for that particular area.  
10                  My experience, and I classify myself as a professional,  
11                  and I have not been consulted until recently, until our  
12                  concerns started to be portrayed to the MNR staff on  
13                  the timber management issues.

14                 I feel that they should have more field  
15                 staff. Maybe it's because lack of budget, I don't  
16                 know, but I have not come across any forest ecologists  
17                 that were looking at the area in terms of old growth,  
18                 and I know that's a new buzz word in the province now  
19                 since the various scientists have come out openly and  
20                 said that: Hey, we have a problem here with the  
21                 environment and the protection of these growth growth  
22                 forest.

23                 I feel that extensive field work must  
24                 take place prior to any of these timber management  
25                 plans and my gut feel is that they are moving too

1 quickly on these plans.

2 Q. What do you mean by that?

3 A. Well, they have five-year timber  
4 management plans and the basic plan for goes for a  
5 20-year period. Five years, I think they should -- you  
6 know, they're worried about, is there going to be  
7 enough timber for the timber industry. They're all  
8 concerned, the timber industry and the MNR are  
9 concerned about the sustainability of timber in the  
10 province, and if they had, say, a ten-year cut plan, it  
11 will obviously allow for more sustainable timber,  
12 natural timber, and would also allow for their  
13 plantations to grow if, in fact, they are growing and I  
14 just think they are moving too quickly.

15 I have a number of guests that are in the  
16 construction field and I have talked to quite a few  
17 builders. These fellows are in their 60s who have a  
18 lot of knowledge of building practices and they are  
19 telling me: George, the timber is too young, they are  
20 cutting -- this is why our houses are -- the frames are  
21 warping, the timber is too young.

22 As I see it, they are looking more for  
23 how much profit are we going to make out of this  
24 timber. They are not looking at the quality of it, and  
25 I think this is being portrayed in a number of our

1 homes in the Toronto area and the complaints that have  
2 arisen from this, and this is from qualified builders.

3 So I think that we have to move a little  
4 slower in this and have the proper research done by  
5 qualified -- by qualified people, not just Ministry  
6 staff, but outside people other than the Ministry.

7 My feeling is that it has taken me 17  
8 years to finally have the Ministry say: Geez, maybe  
9 Mr. Nixon has something to offer us. And I think it  
10 has been actually discussed under the previous  
11 government by the Deputy Minister when he advised all  
12 the district managers that: Hey, we have to work  
13 closely with these other users, these other people who  
14 have a vast wealth of knowledge and it'd taken them 17  
15 years to finally see the light, that they are  
16 professionals who are concerned not only with their own  
17 businesses, but the environment at large and other  
18 interests.

19 Q. Picking up on that point, it was I  
20 guess in March 3rd, 1989 that you became involved or  
21 formally involved in the timber management planning  
22 process, and in paragraph 7 of your witness statement  
23 you indicate that you attended a meeting of four  
24 tourist outfitters, several MNR representatives and two  
25 industry representatives.



1                   The paragraph goes on to indicate that  
2                   The outfitters made a joint request that a no-cut  
3                   roadless reserve consisting nine northeastern townships  
4                   and the Sault District be established to protect  
5                   remoteness and aesthetics.

6                   Could I refer you to appendix C. This is  
7                   in Exhibit 1434 and there we have a map depicting the  
8                   proposed reserve. Can you briefly advise the Board why  
9                   the outfitters picked those nine townships? What's the  
10                  rationale for that reserve?

11                  A. First of all, at this meeting, it was  
12                  a meeting for tourist outfitters and -- you know, not  
13                  only remote tourist outfitters, but tourism  
14                  establishments that were drive in, et cetera, and it  
15                  was basically for disclosure of the next timber  
16                  management plan.

17                  So up until then, we didn't know what to  
18                  expect and we were given basically an outline of this  
19                  sort and where the MNR were going over the next timber  
20                  plan, the next five-year term and ultimately 20  
21                  year-term.

22                  So when I looked at this I was a bit  
23                  astounded and see that it doesn't allow for much room  
24                  for a business of my sort being a fly-in. Of course,  
25                  if there's some clearcuts as this and so close to the



1 lake for being a fly-in, of course, the guests will see  
2 this and see the spider web of roads and know that it's  
3 being accessed by other than guests of a particular  
4 fly-in operation. I said: Boy, we've got to do  
5 something and so I consulted with the other tourist  
6 outfitters and we came with this proposal.

7 Now, all those townships are being  
8 operated in by one or more outfitters by Ontario  
9 Wilderness Vacations and -- well, I see they're listed  
10 and I see that these people, these other outfitters are  
11 listed in the interrogatories.

12 Q. Mr. Nixon is referring to OFIA  
13 question No. 2. This is at the front of the  
14 interrogatory package.

15 A. So we all have a stake in that  
16 particular section of the district and that particular  
17 section that was - I repeat - referred to by the MTR  
18 and tourism consultant of the only remote left area for  
19 tourism of this sort and we decided that, you know, we  
20 better start trying to protect it, not just for our  
21 businesses, but for environmental reasons as well.

22 Q. Did the outfitter propose similar  
23 reserves in the other districts?

24 A. Well, the other districts meaning  
25 Blind River and Chapleau?

1 Q. Blind River and Chapleau.

2 A. Well, there's not of course -- seeing  
3 that I am in that top portion and Airdale has a camp on  
4 Gord Lake, they also -- their business also crosses  
5 over to the Chapleau District. So it wouldn't serve  
6 any purpose to draw the line on this township border,  
7 et cetera, and also in the Blind River just on that  
8 border.

9 So what we did was we included a buffer  
10 zone that would incorporate the Chapleau District and  
11 the Blind River District where I operate, as I said  
12 early, on Nishatagami Lake and Airdale has a camp out  
13 in the Chapleau District and they utilize the river  
14 system flowing out of the Chapleau District into the  
15 Blind River district. That's that canoe route I talked  
16 about. And they also have a bear management unit in  
17 those districts. So we did, in fact -- in my  
18 designation request for a bump-up, which we will get  
19 into later, it included reserves in these other three  
20 districts for our protection -- for the protection of  
21 remote values.

22 Q. Can I ask you to look at OFIA  
23 question No. 2 which is at the front of the  
24 interrogatory package.

25 A. Yes.

1 Q. Is that a complete list of all the  
2 townships that were included in the original reserve  
3 proposal?

4 A. Yes.

5 Q. Could I also refer you now to OFAH  
6 question No. 3. It's just a few pages in. Do you have  
7 that, OFAH No. 3?

8 A. Yes.

9 Q. There they ask you, again, for an  
10 explanation of the rationale for the reserve and you  
11 have set it out there.

12 Now, in the bottom of your answer to the  
13 first question you indicate that logging and road  
14 construction has already commenced in three of the  
15 townships; namely, Ferrier, Havrot and Sherratt that is  
16 subject to the witness' designation request.

17 Does that concern you, Mr. Nixon, the  
18 fact that these operations are underway and you have a  
19 designation request outstanding?

20 A. Absolutely.

21 Q. Why is that?

22 A. Well, it concerns me that by the  
23 time - the way it's going now - my request is being put  
24 in for the start of my designation for a full  
25 environmental assessment, it's going on two years now.

1 I believe it's at the stage of the  
2 environmental advisory Board put forth by the previous  
3 government and by the time, if it does get heard or it  
4 does get looked at, these townships are going -- the  
5 timber is going to be extracted and we won't have an  
6 argument and the remote tourism values will be gone and

7 As I say, this is already taking place in  
8 the two Blind River townships, which are approximately  
9 over to the right here of Ewen and activities for this  
10 five-year plan in Sherratt Township, which is directly  
11 west of Carton.

12 The primary road, the 20 plus year road  
13 is already in place. They're already extracting timber  
14 which you will see on the video. I filmed that timber  
15 practice right down. So the writing is on the wall and  
16 it concerns me a great deal that timber practices are  
17 allowed to continue while, in effect, people like  
18 myself have these designations out to the provincial  
19 government, and as yet nobody has acted on them and  
20 that is a gross injustice.

21 Q. Mr. Nixon, in your opinion, where a  
22 bump-up request has been made, should timber management  
23 activities be halted until a decision has been rendered  
24 on the bump-up request?

25 A. Absolutely.



1 Q. Why is that?

2 A. For the reasons I just quoted.

3 Q. Do you believe that there should be a  
4 bump-up mechanism?

5 A. Yes, I do.

6 Q. But should it take so long to  
7 resolve?

8 A. No, it shouldn't. I think that, if I  
9 may add, I want to get this out in the open that I'm a  
10 firm believer that political favors and greed should  
11 not be involved in determining what should be done with  
12 our natural resources, with our environment and this is  
13 why, as you will see later, that I have and other  
14 people have proposed a better means of management for  
15 this natural resource.

16 Q. I would like to refer to the March  
17 1989 meeting between the outfitters and the MNR and the  
18 industry representatives.

19 You have indicated that at that meeting  
20 you put forward the proposed reserve that we see in  
21 Appendix C to the Ministry and the Industry for its  
22 consideration. Can you advise me whether or not it was  
23 your impression that the MNR was prepared to seriously  
24 consider your proposed reserve?

25 A. They weren't prepared to accept it.



1 In fact, they treated it as a laughing matter and the  
2 fact that, how dare you request nine townships for the  
3 preservation of remote tourism and environmental  
4 considerations, and it was treated very lightly by both  
5 the MNR and the forest industry.

6 Q. Did they provide you any reason why  
7 that is not a feasible or desirable proposal?

8 A. I would say the major reason that  
9 they advised us is that they are running short of  
10 timber. There isn't enough timber, you know, for this  
11 supposedly sustainable activity, and that if a reserve  
12 of that size was put aside for remote tourism, that it  
13 would adversely affect the timber industry.

14 Of course, we are only dealing with nine  
15 townships throughout that whole district. I can't  
16 quote the total number of townships, but you can see  
17 them all on the map in front of you on Appendix C.

18 Q. Now, that meeting took place on March  
19 3rd, 1989 and in Appendix F there is a letter dated  
20 March 20, 1989 from yourself to the district manager  
21 in Appendix F. Do you have that, Mr. Nixon?

22 A. Yes, I do.

23 Q. You indicate that the tourist  
24 outfitters are requesting bump-up appeals for the  
25 secondary roads in the above noted townships.

1                   Why do the outfitters feel that a bump-up  
2 was necessary?

3                   A. Well, basically we felt that our  
4 request was being totally ignored. There wasn't enough  
5 time spent on our concerns and that we felt the writing  
6 was already on the wall. They had already made their  
7 pact with the forest industry and that the only way we  
8 could hope to salvage something here was to go to the  
9 higher ups and utilize the bump-up procedure that is  
10 supposedly available to the general public.

11                  MR. MARTEL: Could I just clarify  
12 something. This plan is for 1990 to '95?

13                  THE WITNESS: Yes, sir.

14                  MR. MARTEL: and you were requested to  
15 discuss the matter in April -- or March of '89. Did  
16 they present the plan to you at that time?

17                  Was that a draft plan or -- because what  
18 surprises me is that you met on the 3rd of March and  
19 seven days later are requesting a bump-up. That's  
20 pretty rapid. We've seen bump-ups requested here at  
21 the hearing, but it takes some extended period of time  
22 before say: Well, we can't resolve it and request a  
23 bump-up and then we can all kinds of delays and haven't  
24 had bump-ups responded to as of yet by the Ministry.

25                  In 17 days you are requesting a bump-up,

1       why?

2                       THE WITNESS: That request was originally  
3 initiated well over a year prior to that. I had  
4 written -- I had known that there was this facility  
5 available through prior talks with the Ministry of  
6 Natural Resources and what they were going to do in the  
7 area.

8                       There is no room for negotiations, and so  
9 I had written to the Premier and to the Ministry of the  
10 Environment for a designation for a full environmental  
11 assessment.

12                      Then as the system continued, you know,  
13 we still were asked to try and negotiate, try to  
14 convince the MNR that, you know, larger buffer zones  
15 are needed, et cetera, et cetera.

16                      Then, of course, these other meetings  
17 took place and I was advised to resubmit my request  
18 because apparently the government wants the people to  
19 have room for negotiations with the various ministries  
20 and, again, nothing had transpired, so the next step  
21 was to initiate the bump-up and get it at that  
22 political level because time was running out. There  
23 were going to start cutting in May of 1990.

24                      At the present time, lumber activities  
25 were allowed to continue even while these hearings are

1 taking place, which I don't agree should happen.

2 MR. LINDGREN: Q. Mr. Nixon, in your  
3 answer you indicated that notwithstanding the  
4 initiation of the bump-up request, you stayed within  
5 the planning process and submitted a second proposal  
6 and there, I take it, you are referring to paragraph 13  
7 of your witness statement, and there you indicate that  
8 you submitted a revised reserve proposal that was, in  
9 fact, smaller than the original. We see a map of this,  
10 that revised proposal in Appendix I of your  
11 documentation.

12 Can you explain to the Board why the  
13 outfitters decided to reduce the size and number of  
14 townships to be included in the reserve? It's Appendix  
15 I.

16 A. Appendix I. Well, what we attempted  
17 to do was to prepare for the Ministry the bare minimum  
18 reserves that we felt would be necessary to protect the  
19 remote tourism of the various operators in question  
20 here.

21 So we set aside -- you know, which is  
22 basically a third of the original nine townships. We  
23 said: This is the bare minimum. You have the maximum  
24 that we feel, you know, which would be great if we had  
25 that, but this is the absolute bare minimum that we



1 need for our own sustainability.

2 So, therefore, we submitted this in hopes  
3 of some form of negotiation. Here's our limits, we  
4 know your limits, you want everything, all he want is a  
5 share and this is what initiated this minimum buffer  
6 zone.

7 Q. Would logging be permitted within the  
8 new reserve proposal?

9 A. No, sir.

10 Q. Why not?

11 A. Well, for the reasons I explained  
12 earlier regarding the aesthetic reasons and also the  
13 spider web of roads and, you know, all my various  
14 answers outlined previously.

15 Q. Now, in paragraph 13 --

16 MR.. MARTEL: Was the reception as -- you  
17 said the first time you proposed nine.

18 THE WITNESS: Yes.

19 MR. MARTEL: And that people didn't take  
20 you seriously. When you proposed three townships what  
21 was the response?

22 THE WITNESS: It was the same response,  
23 sir.

24 MS. BLASTORAH: Mr. Lindgren, could you  
25 just clarify for me, Mr. Martel just said, if I



1 understood you or heard you correctly, that the  
2 original proposal was for nine and the revised one was  
3 for three. Did I hear you correctly?

4 MR. MARTEL: That's what I'm --

5 MS. BLASTORAH: I had understood the  
6 witness' testimony to be that the original proposal was  
7 for 20 townships and the revised proposal was for nine  
8 townships. Could I just ask Mr. Lindgren to clarify  
9 that.

10 MR. LINDGREN: No, I think you are  
11 confused about this perhaps, Ms. Blastorah. I mean no  
12 disrespect by that.

13 MS. BLASTORAH: No, that's fine.

14 MR. LINDGREN: The nine township reserve  
15 was originally proposed for the Sault District only.  
16 The other additional ones were for the other districts.

17 MS. BLASTORAH: So we are only talking  
18 about the Sault Ste. Marie District?

19 MR. LINDGREN: We are still only talking  
20 about the Sault District.

21 MR. MARTEL: Yes. We're talking about  
22 the timber management plan for Sault Ste. -- in a  
23 particular area.

24 MR. LINDGREN: In fact, I might be able  
25 to clarify this by referring the Board and the parties

1 to OFIA question No. 4 which is the second  
2 interrogatory, and there we find a list of the  
3 townships to be included in the revised reserve  
4 proposal and we find Carton and Ewen are still  
5 retained, but smaller portions of Butcher and Hoffman  
6 Townships.

7 MR. CASSIDY: All right. Now I apologize  
8 for being confused. He said three, I see four  
9 according to that answer.

10 MR. LINDGREN: Q. Is it three or four,  
11 Mr. Nixon?

12 MR. CASSIDY: It is parts of four; is it?

13 THE WITNESS: It's part of, yes.

14 But if you look at the overall picture --

15 MR. CASSIDY: One third in Chapleau,  
16 okay.

17 THE WITNESS: So if you add the thirds  
18 and the halves, you know, we get basically a three  
19 township zone versus nine in the Sault District.

20 MR. CASSIDY: Thank you.

21 THE WITNESS: Are we still confused or...

22 MR. CASSIDY: Clear as mud.

23 MR. LINDGREN: Q. Now, Mr. Nixon, in  
24 paragraph 13 of your evidence, you also indicate that  
25 at that committee meeting the draft AOC prescriptions

1 were also discussed and these are set out in Appendix  
2 J. If you flip a few pages into Appendix J, we see an  
3 attachment entitled Draft AOC Prescriptions for Tourist  
4 Lakes in Sault Ste. Marie District Timber Management  
5 Plan, Nine Township Study Area.

6 MS. BLASTORAH: This is paragraph 13 you  
7 are referring to, Mr. Lindgren?

8 MR. LINDGREN: That's correct, and the  
9 reference is to Appendix J.

10 MS. BLASTORAH: Thank you.

11 MS. LINDGREN: Q. Do you have the draft  
12 AOC prescriptions, Mr. Nixon? They are attached to the  
13 minutes in Appendix J.

14 A. Nine township buffer zone proposed;  
15 is that what you said? Appendix J.

16 Q. Appendix J and then attached to that  
17 is something called draft AOC prescriptions for tourist  
18 lakes?

19 A. Yes.

20 Q. Now, on the second page of that  
21 document we see a reference in paragraph 3 to Megisan  
22 and Affleck Lakes and those are the lakes that you've  
23 indicated on Exhibit 1504 are the lakes in question.

24 Can you discuss or describe to the Board  
25 whether or not these proposed AOCs or AOC prescriptions

1       were satisfactory to address your concerns?

2                   A.   I don't feel they're satisfactory.

3                   Q.   Why not?

4                   A.   Again, we had asked for larger buffer  
5       zones for the area, not the proposed 2000 metre and, of  
6       course, you can see the reserve that were set out by  
7       the MNR and that if these larger -- these reserves that  
8       we had requested were put into place, then of course we  
9       wouldn't have to deal with the various skyline reserves  
10      that the MNR and timber people put forth.

11                  MADAM CHAIR:   Excuse me, Mr. Nixon.   Did  
12      you say it is a 2000-metre reserve?

13                  THE WITNESS:   Well, I believe on some of  
14      their prescriptions there is allocation for a  
15      2000-metre reserve.

16                  MR. LINDGREN:   I think the prescriptions  
17      evolved over time, Madam Chair, and we will discuss  
18      that.

19                  MADAM CHAIR:   All right.

20                  MR. LINDGREN:   These are the originals  
21      that were discussed at that meeting.

22                  MR. MARTEL:   With these original reserve  
23      prescriptions, you indicated that part of your business  
24      was taking people out in groups to look at old growth  
25      forests, wildlife and so on.

1 THE WITNESS: Yes.

2 MR. MARTEL: If these reserve come about,  
3 what happens to that portion of your business?

4 THE WITNESS: It would be gone.

5 MR. MARTEL: It can't fuction?

6 THE WITNESS: It can't exist, it can't  
7 function and, if I may, I will show you why on this  
8 map.

9 For instance, one of the areas that we  
10 take these guests to is in the vicinity of -- this is  
11 called Poetry Lake.

12 We call this Grand Pines Lake, there is  
13 no name that the Ministry has for it, and this is one  
14 of the areas that I had the forest ecologist come in to  
15 do a study on the forest in that area.

16 This has tremendous old growth white pine  
17 up to and over 200 years old and, as you can see, the  
18 secondary road corridor comes right through this area,  
19 pass clearcutting, clearcutting in that area, and the  
20 one thing that these people don't want to see is to  
21 walk out of this 60-metre reserve and possibly my trail  
22 will be obliviaded from that map -- from the area.

23 They are not going to want to come into  
24 the area and see that. There will be football fields  
25 and, you know, they will step out of a 60-metre area



1 and there will be virtually nothing.

2 MR. LINDGREN: Q. With respect to these  
3 prescriptions, are your concerns based only on site  
4 lines or are you also concerned about what might be  
5 heard by your guests?

6 A. Well, yes, the noise level is a  
7 concern. Obviously, the guests come to an area of this  
8 type to get away from noise, telephones, cars,  
9 vehicles, et cetera.

10 From the island here on Megisan Lake,  
11 right now we can hear - which is approximately three  
12 miles away from the Sherratt Township primary road - we  
13 can now sit out the front of the lodge and hear the  
14 timber activities carried out; the generators going on,  
15 the logging trucks, the chain saws.

16 And what the timber people proposed, and  
17 I feel the MNR have along with, is that when and if  
18 they started extracting timber from Carton Township,  
19 they're saying: Well, above this line we will have  
20 some restrictions as to time and when we are going to  
21 cut, but, as you can see, this is even a shorter  
22 distance and we are going to be fishing up in here in  
23 these little lakes and they're going to be -- the chain  
24 saws and the trucks and everything is going to be  
25 coming right through there.

1 MS. BLASTORAH: Mr. Nixon, can you show  
2 that line again? I didn't see it very well. Maybe I  
3 will come around.

4 MR. CASSIDY: It is a red line.

5 THE WITNESS: Red line with a dot. It's  
6 called tourism area of concern.

7 MS. BLASTORAH: Thank you.

8 THE WITNESS: As you see from the outpost  
9 location on Affleck Lake, this is approximately about  
10 four inches to the mile, you know, just over a mile to  
11 here.

12 Well, at the end of the lake, if you are  
13 fishing at the end of the lake, we're going to hear --  
14 all the activities will be heard in that particular  
15 part of the cut.

16 MR. LINDGREN: Q. We will return to the  
17 AOC prescriptions in a moment, but while where we are  
18 in the appendices I would like to refer you to Appendix  
19 M which is a letter to you dated May 18th, 1989 from  
20 the Minister of the Environment and this is with  
21 respect to your request for an environmental assessment  
22 of the three timber management plans for the three  
23 districts in question.

24 Is this the only response that you have  
25 received from the Minister of the Environment on that

1 question?

2 A. Yes, sir.

3 Q. Have you ever ever attempted to  
4 follow-up your designation request with the minister or  
5 with the environmental assessment branch?

6 A. Yes, I have on numerous occasions  
7 throughout the course of last year, and this year I  
8 have repeatedly phoned the environmental assessment  
9 branch and I have talked to Darlene Dahl, who was the  
10 appointed consultant on this for the MOE, and  
11 apparently because of the type of designation I have  
12 requested, it was held up in the bureacracy of the  
13 political system and she could not give me any help as  
14 to where it stands, what's happening.

15 I have called the minister's office,  
16 talked to an Ellen Schwartzel who was advisor to the  
17 minister. I hate to think of what my phone bill was,  
18 but I didn't even receive any calls back.

19 So I have spent a great deal of my own  
20 money to find out what exactly is happening. Time is  
21 running out and I would like to know.

22 I even asked Mr. Dahl: Please, come up  
23 to the area, we will fly you around, we will show you  
24 exactly what we are talking about at our expense. The  
25 air service would pick up the flying, we'll help you in

1 the accommodation. There doesn't have to be a great  
2 deal of money spent here if it's budget you are  
3 concerned about, please come up. And that was held up.  
4 Nobody had come up, and I feel again it was held up in  
5 the political system and it still is. They don't know  
6 what to do with these requests. Now we are faced with  
7 a new government.

8 Q. If I could, I would like to refer you  
9 to Appendix N. Before we move on from the issue of  
10 designation, and we will return to that in a few  
11 moments as well, but is your designation or bump-up  
12 request supported by NOTOA?

13 A. Yes, it is.

14 Q. And you are a member of NOTOA?

15 A. Yes, I am.

16 Q. I would like to refer you to Appendix  
17 N which is the next page in the documents. This is a  
18 letter dated June 21st, 1989 to yourself from the then  
19 Minister of Natural Resources, and I would like to  
20 refer you to the final paragraph of that letter and  
21 there there is an indication from the Minister that:

22 "I assure you that my staff will take the  
23 appropriate action in order to provide a  
24 reasonable and responsible level of  
25 protection for your remote tourism



1 business under the integrated resource  
2 management philosophy."

3 Mr. Nixon, in your opinion, do you believe  
4 that a reasonable and responsible level of protection  
5 has been given to your remote tourism business?

6 A. No, I don't.

7 Q. Why not?

8 A. Based on my explanation of your  
9 previous questions and what is displayed on this board  
10 here. To me, that is not a reasonable and responsible  
11 level of protection, especially under what I feel is  
12 integrated resource management. It all flows in favour  
13 of the timber companies.

14 MR. MARTEL: Can you tell me, do you know  
15 how many outpost wilderness operators there are in  
16 northern Ontario through your contacts with NOTOA and  
17 being part of NOTOA?

18 How many such -- we have come across this  
19 problem over and over again and I don't think anyone  
20 has ever suggested to us - maybe I missed it - exactly  
21 how many people and how many lakes we are really  
22 talking about with this type of experience.

23 THE WITNESS: I'm sorry, sir, I can't be  
24 totally accurate on this, but the whole province of  
25 Ontario and especially northern Ontario, I would say



1 200 outfitters in the remote business are there.

2 I mean northern Ontario is a wide area,  
3 that includes the Indian -- the native groups who  
4 operate fly-in remote camps. There's quite a few and,  
5 of course, they donate quite a few tax dollars to the  
6 province, as I pointed out in the economic study that  
7 was prepared just for that small region, the Sault Ste.  
8 Marie/Wawa area.

9 MADAM CHAIR: Thank you, Mr. Nixon. The  
10 Board doesn't expect you to have statistical  
11 information at your fingertips and, as you know, NOTOA  
12 will be presenting a case to the Board some time next  
13 year.

14 THE WITNESS: Yes.

15 MR. LINDGREN: If I could, I would like  
16 to refer you to one more appendix and then perhaps we  
17 can break for lunch.

18 I am referring to Appendix P. This is a  
19 letter dated September 25th, 1989 to yourself from Mr.  
20 Lasard, who is the district manager for the Sault  
21 District, and the letter refers to trips taken by the  
22 MNR to the Megisan Lake area, and in particular there  
23 is a description of a trip that took place on September  
24 11th and again on September 24th.

25 In the second last paragraph on page 1

1 the Ministry tells you that:

2 "Based on our observations, much work  
3 must be completed to bring the portages  
4 up to operational status. On the  
5 surface, the value of your portage system  
6 to your tourist program is questionable."

7 I am wondering if you have any comments  
8 or concerns about the inspections or about that  
9 statement I just read to you?

10 A. Yes, I do.

11 As soon as I received this letter, I  
12 immediately got on my radio telephone and phoned the  
13 district manager, Mr. Lasard and asked him: How on  
14 earth can you possibly question the value of my portage  
15 system when, in effect, these people who came into the  
16 area, who flew into Megisan Lake came in with their  
17 canoe, without any paddles, without any compass, I had  
18 to lend them my own equipment, and these are the people  
19 who try and tell me how I should run or operate a  
20 tourist business.

21 And then the pilot who flew them in was  
22 very concerned that they were lost, they were behind  
23 schedule. He flew around looking for them and these  
24 are individuals who are passing judgment on myself who  
25 has 17 years' experience in the business and these

1 trails were easily walkable by my 14 year-old daughter  
2 and by some elderly guests of mine. So I was totally  
3 appalled that they would even discuss this type of  
4 situation with me and I was very irate about it.

5 MR. LINDGREN: Madam Chair, I can  
6 indicate that the issue of those site inspections were  
7 the subject of an interrogatory; namely, MNR No. 13.

8 I am not going to refer Mr. Nixon to it,  
9 but it's there in case the Board or the parties want to  
10 look futher into that issue.

11 Madam Chair, this might be an appropriate  
12 time for a break.

13 MADAM CHAIR: All right, Mr. Lindgren.  
14 Mr. Nixon, we will be back at 1:30.

15 THE WITNESS: Okay. Thank you.

16 MADAM CHAIR: Thank you.

17 MR. CASSIDY: Madam Chair.

18 MADAM CHAIR: Mr. Cassidy?

19 MR. CASSIDY: Thank you. I am just  
20 interested in the time table for Mr. Lindgren, as to  
21 when he might be finished today. I can anticipate at  
22 this point I will be very short in cross-examination.

23 MADAM CHAIR: Mr. Lindgren?

24 MR. LINDGREN: 45 minutes, I believe.

25 MADAM CHAIR: To complete --

1 MR. LINDGREN: We will be very brief. We  
2 will certainly be finished before the break, the  
3 afternoon break.

4 MADAM CHAIR: All right.

5 MR. LINDGREN: I should also add that Mr.  
6 Nixon does have a very brief video which has been  
7 clocked at seven minutes and we will show that as well.

8 MADAM CHAIR: All right.

9 Ms. Blastorah?

10 MS. BLASTORAH: It is hard to predict at  
11 this point, not having heard all the direct evidence.  
12 I hadn't planned to be very long, maybe half an hour to  
13 45 minutes.

14 I will look at my notes over the lunch  
15 hour and try and give a better estimate when we come  
16 back. I will make every effort to complete my  
17 cross-examination today.

18 MADAM CHAIR: Thank you, Ms. Blastorah.

19 Certainly we will begin with Mr. Marek  
20 tomorrow at some point.

21 MR. LINDGREN: It certainly looks that  
22 way, Madam Chair.

23 MR. CASSIDY: Thank you, Madam Chair.

24 MADAM CHAIR: Thank you.

25 ---Luncheon recess taken at 12:00 p.m.



1 ---On resuming at 1:35 p.m.

2 MADAM CHAIR: Good afternoon. Please be  
3 seated.

4 MR. LINDGREN: Thank you, Madam Chairman.

5 Mr. Nixon, I would like to start off by  
6 referring you to paragraph 20 of your witness statement,  
7 and then there's an indication that you received a  
8 letter from the Sault Ste Marie district manager dated  
9 October 10, 1989 and in that letter the district manager  
10 proposed that the access road in question would be  
11 signed so as to restrict access to only those engaged  
12 in logging activities, and that letter has been filed as  
13 appendix Q.

14 Do you have any comments on whether or not  
15 signing an access road would be satisfactory to you?

16 A. Yes, I do. In my opinion, I believe  
17 that that system will not work, and the reason I say  
18 that is that as of October 1990, this month, they have  
19 used that system of signing an existing timber road,  
20 which I can't show you on the map but it's on Goulet  
21 Lake area which -- there's a camp there that is owned by  
22 Ontario Wilderness Vacations.

23 There has been logging done in the  
24 immediate vicinity, and of course they have this  
25 spiderweb of roads in place, and the Ministry had said,



1 'Okay, we are going to sign this road, no public  
2 access', and they've already had this year, once in the  
3 spring, parties coming in accessing the lake while  
4 tourists are there, coming right in the back door of  
5 their -- meaning -- the back door meaning right behind  
6 the island where the camp is located and also during the  
7 moose hunt. This past whose hunt they had a group of  
8 six to eight hunters again accessing the area.

9 And to me -- and there's a very large  
10 argument between Ontario Wilderness Vacations and the  
11 MNR on the placement of the sign and how they went about  
12 to get this sign in place and they are very upset with  
13 it and they just don't agree with this procedure and  
14 it's not going to work.

15 Q. Now, you've indicated that signing the  
16 road won't work. What is your preferred alternative in  
17 terms of dealing with the access problem created by the  
18 roads?

19 A. Well, first of all, it would be a  
20 problem if we were allocated larger buffer zones in our  
21 immediate areas. Not only I but the other operators in  
22 question, they are totally in favour of these larger  
23 buffers. If we had them in place then there wouldn't be  
24 a problem.

25 Q. Now, in paragraph 22 of your witness

1 statement there's an indication that you attended the  
2 MNR open house on the draft timber management plan on  
3 November 1st, 1989. Can you advise me as to whether or  
4 not your proposed reserve was displayed on a map at that  
5 open house?

6 A. I'm sorry, could you repeat that?

7 Q. I'm just wondering at the November  
8 1st, 1989 open house was your proposed reserve displayed  
9 on a map?

10 A. On the March --

11 Q. We are talking November 1st.

12 A. Oh, November 1st. No, it wasn't.

13 Q. And in your view should the proposed  
14 reserve have been visually displayed?

15 A. I feel it should have because it was a  
16 very intensive concern by all the outfitters in question  
17 and obviously it was a very big issue, and of course it  
18 wasn't displayed but what was displayed was this map.  
19 And the major issue that the MNR is trying to have  
20 public opinion on was my request to have this Megisan  
21 Lake Road closed, and in my opinion this would have been  
22 part of the timber management plan.

23 And this became an issue, this particular  
24 road became an issue more so than what our opinion was  
25 on larger buffer zones, et cetera, et cetera, and I felt

1       that this was very unfair on behalf have the MNR.

2                   MR. MARTEL: Did you ask them why they  
3       didn't display it?

4                   THE WITNESS: I believe it's explained  
5       from a letter by the district manager saying, you know,  
6       they can't display all of the public input, et cetera,  
7       et cetera. There is a letter.

8                   MR. LINDGREN: I think you are referring  
9       to appendix U, which is a letter dated January 12, 1990  
10      from the district manager to Mr. Nixon, and on the first  
11      page this third paragraph under heading No. 1. There's  
12      a statement that:

13                         "It is not required nor is it practical to  
14                         display all public input at the draft plan  
15                         review stage, but it is required to have  
16                         this input available."

17                   Now, Mr. Nixon, would you have preferred  
18       to have a formal opportunity to explain your reserve to  
19       the public at this open house?

20                   A. Yes, I would have. I attended the  
21       open house on behalf of Tourism to try and answer as  
22       many questions as possible by the public on these issues  
23       but I must say that that map was -- the map of our nine  
24       township zone was left out for the public to view  
25       previous -- I don't know if you call it an open house or

1       whatever, but there was -- when this issue came to pass  
2       and I brought the map forward the Timber Management  
3       Planning Committee decided to leave this map out in the  
4       office so that people who are attending this evening  
5       meeting could see what was happening and what the  
6       tourism people were proposing.

7                       And as far as I was concerned at that  
8       stage, that map was for the advisory committee and  
9       tourist operators and there wasn't very much discussion  
10      done on it at all. As far as I'm concerned, there  
11      should have been a great deal more discussion on it  
12      before it was even put out into the public's eyes and at  
13      least allow me to explain in length what it meant and  
14      what it meant to the Anglers & Hunters Association, et  
15      cetera. So again, I felt that that was a very unfair  
16      approach.

17                    Q. At either of the information centre or  
18      in the open house did you receive any favourable  
19      comments the public about your proposed reserve?

20                    A. Yes, I did.

21                    MR. LINDGREN: And Madam Chair, the  
22      reference here is to MNR interrogatory question No. 8,  
23      and appended to question No. 8 are a number of timber  
24      management planning comment sheets.

25                    Q. And without looking at all of the



1 comment sheets that are appended to question No. 8,  
2 Mr. Nixon, can you advise the board as to the reasons  
3 why the public, or some members of the public, supported  
4 your proposed reserve?

5 A. Well, I guess they have the same  
6 opinion as we do in that environmental issues need to be  
7 followed a little more closely and that the general  
8 consensus are that the forest industry cannot continue  
9 to have carte blanche on the forests and that these  
10 other users, meaning tourist outfitters, the FON and  
11 various other groups, canoeists, and just the general  
12 fishermen, they want to see the forest protected and  
13 have larger buffer zones, and that was conveyed to me  
14 numerous times.

15 And again, if I may add, I have a comment  
16 about that open house and I guess it has to relate to a  
17 number of people that attended. I believe there was  
18 about 225 people that attended the open house and I  
19 understand that that's good for an open house  
20 attendance, but if the MNR is using this criteria as a  
21 means to make a decision, if you look at the population  
22 of Sault Ste Marie of 80,000 people, you know, that is  
23 about a quarter of one per cent of the people that have  
24 shown an interest, and I think the means of supplying  
25 these statistics or getting information from the public



1     should be greater surveys done, and I have quite a few  
2     ideas on how to do that, but again, you know, it's past  
3     tense now.

4                     And I don't think that the number of  
5     comments that were sent in is indicative to how the  
6     general public feel about these issues, and I think that  
7     can be documented along with the whole Earth Day  
8     Movement in all the cities across the world, and I want  
9     to make it a point that this isn't just a local issue.  
10    This is a global issue that we are talking about here.  
11    And I think this is things that have to be addressed.

12                    Q.   Now, Mr. Nixon, in paragraph 22 you  
13    also make the reference, or the statement, that in  
14    general you have found the open house process to be a

15                             "...waste of time since public input has  
16                             not been adequately reflected the result  
17                             of Timber Management plans."

18                             Why do you  
19                             say that?

20                    A.   Well, I'm going back to what I just  
21    finished saying, that less than a quarter of one per  
22    cent as replied to these -- regarding these hearings and  
23    greater consultation, greater, more surveys, the use of  
24    professionals in the field to portray to the general  
25    public what exactly is happening here and then get an

1 analysis of what their feelings are and then come up  
2 with some logical solutions. I think that's a much  
3 fairer approach.

4 Q. And after the November 1st open house  
5 you wrote to the Sault Ste Marie district manager, and  
6 this is found in appendix R. It's a letter dated  
7 November 15th, 1989, to Mr. Lissard from Mr. Nixon.

8 And again without reading the document,  
9 Mr. Nixon, perhaps you can summarize for the board the  
10 concerns that are outlined in this letter.

11 A. Basically my concern was that the  
12 larger buffer zones were not displayed and that tourism  
13 values did not get a fair shake at this hearing or at  
14 these open houses. I was concerned about the  
15 clearcutting and the patch clearcutting in relationship  
16 to fish and wildlife and how it would affect the fish  
17 and wildlife in the area, and I've been told by various  
18 biologists that being an all trout area, that this issue  
19 should have a very, very high priority in preservation  
20 of trout, and based on the fact that the federal  
21 government Oceans and Fisheries have been doing studies  
22 in the area, plus the provincial MNR were using the area  
23 for extensive lake trout research. I expressed that  
24 opinion.

25 I was concerned about the road corridors,

1 and I was concerned, of course, about the signage  
2 problem and, et cetera, et cetera, and the effect of  
3 how logging operations would have on head water streams  
4 like the Goulet River, which is in Sherratt Township,  
5 and at this present time I believe there is an  
6 outstanding charge against a lumber company who has done  
7 some damage to the head waters of the Goulet River, and  
8 I don't know where this was at at the time but I was  
9 concerned about those issues and basically how the MNR  
10 was going to police their system.

11 You know, with only four to five  
12 conservation officers looking after the whole Sault  
13 district, I wanted to know how they were going to  
14 guarantee that this system was going to work, and that  
15 there is no background information that has worked.  
16 They just say "It's going to work." And I don't believe  
17 that because we've proven in other instances that these  
18 systems are not working. So that was a great concern.

19 The regeneration activity, when they were  
20 going to regenerate the forest and what priority it  
21 would take knowing how tight government spending is and  
22 various budgets and also knowing that the cutting  
23 grossly outweighs the amount of regeneration done by the  
24 Ministry.

25 So these are my concerns and this is what

1 I basically outlined in my letter and Mr. Lissard  
2 answered accordingly.

3 Q. And Mr. Lissard's answer is in  
4 appendix U, and we've already looked at that and I would  
5 like to return to that very briefly.

6 First of all, can I ask you in general,  
7 are you satisfied with this response? This is  
8 appendix U.

9 A. I'm not satisfied with his total  
10 response. Obviously there is one section there that I  
11 am grateful for, and that was after sort of a crash  
12 meeting prior to the acceptance of the timber management  
13 plan or the open house. It was decided that any cutting  
14 in the area that I'm in, which is the Carton Township  
15 area and this particular piece of crown land that is  
16 allocated for the '90-'95 cut, they've delayed that  
17 until May of '92 before they are going to come in and  
18 put the roads in.

19 So right now we have a -- about a year and  
20 a half grace, really only one summer, and Mr. Lissard  
21 said that this will give us time to do more research on  
22 the area and maybe come up with some new amendments, et  
23 cetera, et cetera. And now it's been a year gone by and  
24 I haven't been contacted by the MNR on any of their  
25 studies and so what I did was I decided to -- and along



1 with another outfitter, Ontario Wilderness Vacations, we  
2 hired our own forest economist and he --

3 Q. Ecologist?

4 A. Ecologist, sorry. And he came in and  
5 did a study, and I believe we have a copy of that here.

6 MR. LINDGREN: That's correct. Madam  
7 Chair, I would like to file that as the next exhibit.

8 MS. BLASTORAH: I'm not objecting to the  
9 filing of this document. I would just like to clarify  
10 something before it's filed.

11 Mr. Lindgren, are you filing this document  
12 to establish the truth of the contents of it or are you  
13 filing it simply to establish that this is the basis on  
14 which this witness is giving his evidence?

15 MR. LINDGREN: I think primarily the  
16 latter, Miss Blastorah.

17 MS. BLASTORAH: Well, I think there is  
18 some importance as to whether the primarily the -- the  
19 reason being that if the -- as you yourself pointed out,  
20 Mrs. Koven, during the scoping session, it would be  
21 inappropriate for us to cross-examine Mr. Nixon on the  
22 scientific basis, or whether the scientific information  
23 may be contained in this document, since he's not  
24 qualified as an expert. And my concern is will Mr.  
25 Lindgren at some point be relying on the truth of what's



1 contained in this document. Obviously we would be of  
2 the opinion that it would be necessary for him to put  
3 forward a witness to address that document and be  
4 cross-examined on it, and I don't have any objection to  
5 it being filed certainly in support of the basis on  
6 which Mr. Nixon is giving his evidence here. I have no  
7 problem with that at all. I'm just asking whether he  
8 intends to use it at any further date for any other  
9 purpose.

10 MR. LINDGREN: I think not, Madam Chair.  
11 The issue of old growth, and I think this is the issue  
12 Ms. Blastorah is referring to, that has been and will be  
13 addressed in witness statement No. 6 specifically by Mr.  
14 Chris Major.

15 I should indicate that this document has  
16 been provided to the parties and it really stems from  
17 MNR Question No. 4 which is within your -- in Exhibit  
18 1502. In Question A the MNR asked Mr. Nixon "What are  
19 the attributes of the significant stands of old growth  
20 white pine?"

21 And in the answer Mr. Nixon indicates that  
22 he's observed and of course sampled large old trees and  
23 that he's hired a forest ecologist to study these  
24 ecosystems, and this in fact the report produced, and  
25 that report I believe provides some support for Mr.

1       Nixon's contention that there are, what he calls, old  
2       growth white pine stands in the area and that's the  
3       purpose for which this has been introduced.

4                   MS. BLASTORAH: Okay. I wasn't  
5       specifically dealing just with the old growth issues,  
6       I'm dealing with the entire document and whatever it  
7       says, and my concern is you have just indicated, Mr.  
8       Lindgren -- and it may be my misunderstanding -- you've  
9       indicated that you feel it provides some support for  
10      what he's saying.

11                   Again I would be somewhat concerned  
12      because that tends to imply that you are relying on the  
13      truth or scientific information contained in this  
14      document, and again I just want to clarify what the  
15      position is, that's all, and I'm not objecting to it  
16      being filed for the purpose of supporting Mr. Nixon's  
17      opinions, but as his opinions I just want to clarify  
18      that again.

19                   MR. CASSIDY: I support Ms. Blastorah's  
20      position on that. I have no objections to it being  
21      filed for the sake of Mr. Nixon proving that he had  
22      studied that. The finding of the study, or its validity  
23      however, is something that I would object to in the  
24      evidence being lead or any reliance being made by  
25      Forests For Tomorrow simply because I've not had an

1 opportunity to cross-examine the witness.

2 Ms. Koven -- we can't cross-examine on the  
3 scientific basis, and as a result if he intends to do  
4 that he should undertake to make these witnesses  
5 available for cross-examination, that is, the authors of  
6 this report.

7 MR. LINDGREN: Madam Chair, I can simply  
8 indicate that this is provided at this point for factual  
9 support for Mr. Nixon's position.

10 MR. CASSIDY: Well, I guess that's the  
11 soup we are into. If he's provided the factual support  
12 then I can cross-examine on it, and this man's not a  
13 scientist, he's not even the author.

14 MR. LINDGREN: That is not the problem,  
15 Madam Chair. If I understand Mr. Cassidy correctly, he  
16 is somehow prejudiced that if this gets in and he can't  
17 cross-examine on the science behind it -- that's not why  
18 it's being tendered at this time, and I haven't heard  
19 either one of my friends object to its admissibility.  
20 It's the study that Mr. Nixon commissioned. I think  
21 it's important, A, to find out why he felt it was  
22 necessary to commission such a study and are there -- I  
23 was going to ask him and I intend to ask him, are there  
24 any portions in here that he would like to highlight to  
25 the board. That's separate and distinct from the

1 scientific or the substantive support for this document.  
2 I mean, nobody's taken issue with its admissibility.

3 MR. CASSIDY: Exactly. If it's on the  
4 basis that it's filed in fact to substantiate that he  
5 did go out and get a report done. But if he's going to  
6 highlight parts of it, how can I cross-examine? This  
7 man is not even the author. Obviously I would want to  
8 cross-examine. He's highlighting those important parts  
9 for one purpose, to establish to you that there is  
10 scientific evidence to support his position. That's  
11 great.

12 How does any party here cross-examine on  
13 that when the man is not a scientist, not even the  
14 author? For that reason, I do object if he's going to  
15 highlight parts of the report, unless he is prepared at  
16 a later date to put these two people on the stand so I  
17 can then have somebody to cross-examine.

18 MADAM CHAIR: Was it your intention, Mr.  
19 Lindgren, during Panel 6 or some part of your case to  
20 have Dr. Martin and Norma Martin?

21 MR. LINDGREN: No. That's not our  
22 intention, no.

23 I think part of the problem here is that  
24 my friends are objecting to questions that have not been  
25 put and I think my friends' concerns might be put to



1 rest if Mr. Nixon can go through the report and show  
2 precisely the portions or the items in the report that  
3 he would like to draw the board's attention to.

4 And I say again, this report is not being  
5 introduced for the purpose of providing scientific  
6 evidence to the board or to the parties on the tissue of  
7 old growth. That's not why it's being tendered at this  
8 time. It's being tendered because this is the report  
9 that Mr. Nixon has referred to in the interrogatories  
10 and there are certain items, non-scientific items, in  
11 here that he would like to point to the board or draw  
12 attention to.

13 MADAM CHAIR: We'll certainly be hearing  
14 what Mr. Nixon's interpretations of the information in  
15 the report are. I mean, he will be saying, 'I agree  
16 with this conclusion of the report that I commissioned.'

17 MR. LINDGREN: That may well be his  
18 position.

19 MADAM CHAIR: Let's go through with the  
20 questions and see what happens at the end of it.

21 MS. BLASTORAH: As I indicated, Ms. Koven,  
22 I was just trying to clarify and I intend to do that,  
23 and if I have an additional concern I'll raise it. If  
24 that becomes a concern perhaps Mr. Lindgren can indicate  
25 which witness, be it Dr. Major or whoever. He may want



1 to deal with it, but let's deal with the questions.

2 MADAM CHAIR: Let's start, Mr. Lindgren.

3 MR. LINDGREN: Perhaps we can start by  
4 marking this as an exhibit. What was the Exhibit No. 1,  
5 Madam Chair?

6 MADAM CHAIR: Exhibit No. 1505.

7 ---EXHIBIT NO. 1505: Report entitled "Ontario  
8 Wilderness Vacations Ltd. and  
Airdale Flying Services"

9 MADAM CHAIR: And this is a report that  
10 you commissioned, Mr. Nixon?

11 THE WITNESS: Yes.

12 MADAM CHAIR: Mr. Nixon, you are the  
13 Ontario --

14 THE WITNESS: It's called Ontario  
15 Wilderness Vacations Airdale and Flying Services Ltd.  
16 There's two companies involved.

17 MADAM CHAIR: Could you say that again?

18 THE WITNESS: Ontario Wilderness Vacations  
19 and AirDale Flying Services.

20 MADAM CHAIR: Airdale?

21 THE WITNESS: Yes.

22 MR. LINDGREN: Q. Mr. Nixon, perhaps  
23 before we go into the report, can you explain to the  
24 board why you felt it was necessary to hire these people  
25 to do this report?

1                   A. I felt it was necessary because the  
2 issues at hand were running short of time, and given  
3 that I have approximately right now a year and a half  
4 left before logging roads are put into place to address  
5 my case to, A, the Environmental Assessment Board or the  
6 MOE on behalf of my designation request, I felt that I  
7 had to have a professional come in and do a study. So,  
8 therefore, I hired Mr. and Mrs. Martin to come in  
9 because they are professionals in the fields that they  
10 are in and this report was produced.

11                   I assisted them on the various studies  
12 just as basically a layman doing lay work, and the  
13 findings were very interesting and I think just to more  
14 or less add some credibility to what I have been saying  
15 all along as far as the value of this area to many user  
16 groups.

17                   MADAM CHAIR: Mr. Nixon, why does it say  
18 on the front cover "Districts of Sudbury and Algoma"?

19                   THE WITNESS: Well, I guess we are in the  
20 District of Sudbury basically and --

21                   MADAM CHAIR: Not the MNR district?

22                   THE WITNESS: No. Well, how is that --  
23 I'm not sure how --

24                   MADAM CHAIR: It just says on the cover of  
25 the report.

1 THE WITNESS: It's the jurisdiction of  
2 Sudbury actually.

3 MADAM CHAIR: Under which -- not in the  
4 MNR districts?

5 THE WITNESS: No. It's not referring to  
6 the Sault Ste Marie district, although Megisan Lake does  
7 refer the Sault district.

8 MR. MARTEL: There is some problem here  
9 because the Sudbury district wouldn't go beyond the  
10 boundary around -- well, maybe Espanola, maybe not that  
11 far.

12 Where would Sudbury fit into it?

13 THE WITNESS: It's just the terminology  
14 they use. It's called the District of -- everything is  
15 allocated through Sudbury.

16 MR. LINDGREN: I think it's a larger  
17 geographic -- it's a district but it's not administered  
18 by the Ministry of Natural Resources.

19 MADAM CHAIR: I know it's not.

20 MR. MARTEL: I understand the District of  
21 Sudbury, I don't think goes by McKerrow even. I think  
22 that would be the furthest point. I could be wrong, but  
23 I don't think it's goes beyond McCarrow before you enter  
24 Algoma. It could be a little further.

25 MADAM CHAIR: As long as we are clear it

1 has nothing to do with the MNR districts, lets go ahead.

2 Sorry, Mr. Nixon, go ahead.

3 THE WITNESS: So -- okay. The other  
4 reason why I wanted to get a feel for exactly what was  
5 in this area to be cut. And so Mr. and Mrs. Martin  
6 joined me, and I believe he says on the first plot what  
7 we did was we went across through to Afflac Lake, up the  
8 river, and I have a trail leading up to this lake system  
9 here, through this set of timber. And this is where the  
10 first survey took place, and of course the recordings  
11 were found and the type of trees and the shrubs, there  
12 are plants, et cetera et cetera.

13 And then on the second day we went up to  
14 the north end and went in through my system of portages  
15 and lakes and went up into -- eventually up halfway into  
16 this area here, and this is where we noted a large  
17 number of stands of old growth trees, and I believe if I  
18 can refer you to the photos depicting this type of old  
19 growth, figure No. 5.

20 MR. LINDGREN: Q. What page is that on?

21 A. Page 17.

22 Q. Is that you standing there, Mr. Nixon?

23 A. Yes, it is. And then on the third  
24 survey we went across and up over into this area, which  
25 we call Lake 27, and then working our way over to



1 Prairie Grass Lake, and again we found large numbers of  
2 large white pine, some red pine as outlined in Mr.  
3 Martin's report, Mr. and Mrs. Martin's report. And I  
4 would like to refer the board to look at page 23, figure  
5 11; page 24 and page 25, figures 12 and 13.

6 MS. BLASTORAH: Sorry. Could you please  
7 give me those numbers again, please. Give me those  
8 numbers again.

9 THE WITNESS: From the start?

10 Ms. BLASTORAH: Page 23.

11 THE WITNESS: Yes. Page 24, page 25,  
12 which are figures 12 and 13.

13 MS. BLASTORAH: Thank you.

14 THE WITNESS: And of course the findings  
15 were noted in his report.

16 Now, again, I would like to draw the  
17 board's attention to his recommendations in that this  
18 area has significant value for educational purposes  
19 along with for remote tourism and recreational use.

20 MR. LINDGREN: Q. You are reading from  
21 page 12?

22 A. Page 12 in his report. And I'm also  
23 in agreement with his recommendations on present logging  
24 in these townships be terminated and no new logging or  
25 logging roads be permitted in that area, and I also



1 agree with his recommendation that a council or  
2 competent representatives be set up so that these  
3 concerns can be brought forth and say yes to you if we  
4 have a problem here in that these old growth areas have  
5 to be protected and they can only be protected with  
6 these much larger buffer zones.

7 And again I'm using this document just  
8 basically for credibility on -- that the fact is that I  
9 have gone ahead to show that I am very interested in  
10 what is going up in this portion of the Sault District,  
11 and that at present I have not seen any similar type of  
12 report sent to me by the MNR in which Mr. Lissard said  
13 gives us leeway, gives us time to do exactly what I have  
14 done. And as I'm saying, time is running out. We  
15 obviously can't do it in the winter time. We've got one  
16 summer left before operations start in that particular  
17 township of Carton Township.

18 So my concern is even if it happens next  
19 spring, that the MNR is going to say, 'George, well,  
20 here is what we found, let's talk.' It won't happen,  
21 it's too late. Operations are going to start May of  
22 '92, and that is of great concern to me. I have to rely  
23 on the professionalism of Mr. and Mrs. Martin and I just  
24 hope that the board accepts this as a valid document.

25 MADAM CHAIR: Mr. Nixon, do you think if

1 MNR, perhaps they've done inventories. You haven't seen  
2 any inventories of this nature that have been done by  
3 the MNR. But if they did inventories and they received  
4 the same results as this document, do you think that  
5 that would change their minds about cutting in the area?

6 THE WITNESS: I hope it would. I hope it  
7 would open the doors to greater consultation.

8 Madam Chair, my gut feel is I don't think  
9 it would make a bit of difference. I think they have  
10 already made up their minds, and unless government  
11 intervention can take over we are faced with a very  
12 serious problem. And I think that the bind that the MNR  
13 has with the timber industry is far greater than looking  
14 at professional reports such as this to base their  
15 decision-making on, and that's what I'm afraid of.

16 So I hope I've answered your question, but  
17 I would like to say yes, I think they would change their  
18 minds but, you know, my gut feel says there's too much  
19 going on behind the scenes, too much cover-up, et  
20 cetera, et cetera, that the writing is on the wall and  
21 only the MOE who may have greater power than the MNR or  
22 the other ministries, the Environmental Assessment Board  
23 like yourselves, or advisory council to the Ministry of  
24 the Environment, only they can come in and stop it.

25 And this is what we are faced with and

1       this is why I've gone to the expense to bring in this  
2       type of professionalism and try to eliminate the  
3       political bureaucracy and the greed associated with the  
4       timber industry and the MNR, and I want to pull that out  
5       of the environmental issues and let's get on with some  
6       professionalism with this material and let's let the  
7       people know what's really out there and where the  
8       concerns lie.

9                   MR. LINDGREN:   And Mr. Nixon --

10                  MADAM CHAIR:   Sorry, Mr. Lindgren.

11                 I only asked that question because from  
12       what we've seen of the forest resource inventory and the  
13       sort of stocking standards and cruising that the MNR do  
14       in an area, I don't think it would come as any surprise  
15       to them that the forest looked this way, that there  
16       is -- I think scattered white pine is something I saw  
17       quickly and various types of wild plants and so forth.

18                 I would think that they would be aware of  
19       that themselves through various work that they might of  
20       done, although perhaps not as detailed as this. I have  
21       no idea.

22                 But I'm just saying, do you think on the  
23       basis of this kind of information MNR would find that  
24       convincing and in any way a reason to change something  
25       in the timber management plan?

1 THE WITNESS: Well, what Mr. Lissard is  
2 saying is that maybe it would, but the die has already  
3 been cast and it's very tough to convince them that this  
4 is another route to look at, and I don't really think  
5 they do know what's out there. I really don't. I think  
6 that there has to be more people in the field and do  
7 such a study as this in these remote areas.

8 Now, they may have looked at areas in the  
9 southern portion of the district where there used to be  
10 white pine and they may have old analysis maps, old  
11 statistics on this stuff, but they sure don't have it in  
12 the northern parts. And it was brought to my attention  
13 by our own ministry consultant that the view of the MNR  
14 is to eliminate all of the white pine in the Sault  
15 District by the year 2000. And, you know, there's a  
16 perfect example of where they are going to go on some of  
17 these issues, and I don't think that's right.

18 MR. MARTEL: Have you asked him what type  
19 of inventory they have of the area?

20 THE WITNESS: I'm sorry.

21 MR. MARTEL: Have you asked them what type  
22 of inventory they have of that area?

23 THE WITNESS: All I've looked at are the  
24 ministry maps that the foresters use, and maybe Mr.  
25 Lindgren can tell me what the terminology is for those



1 maps.

2 MR. LINDGREN: An FRI map.

3 THE WITNESS: FRI map showing the basic  
4 stands and what is in those stands. That's the only  
5 inventory that I've looked at.

6 MR. LINDGREN: Q. And are those timber  
7 resource maps that you looked at?

8 A. Yes.

9 MADAM CHAIR: Go ahead, Mr. Lindgren.

10 MR. LINDGREN: Thank you, Madam Chair.

11 Q. I'm just picking up on your comments,  
12 you've indicated that in your view the die has been  
13 cast, as it were. And is that why, Mr. Nixon, you wrote  
14 appendix V, which is your letter to the Ministry of the  
15 Environment dated January 25th, 1990? Is that why  
16 you've gone to the Ministry of the Environment?

17 A. Yes, it is. And I wanted to point out  
18 to the past minister, Mr. Bradley, my true feelings for  
19 this designation request, and it's been grossly ignored  
20 by the MNR in all three districts in that it's the  
21 cumulative aspect of these three timber management plans  
22 that we are talking about, not just the Sault Ste Marie  
23 district, the Sault timber management plan, it's the  
24 location of the business on Megisan Lake, and it had to  
25 be brought to his attention.

1                   And is it my opinion that the MNR just  
2                   look after their own particular districts. They don't  
3                   care what goes on two miles into the next district, and  
4                   that's why this is such a rare case, is that there are  
5                   three districts all within three miles and this has to  
6                   be addressed. You cannot have a viable system when the  
7                   left hand doesn't know what the right hand is doing.  
8                   And I thought that this had to be pointed out to the  
9                   minister, and I sent him a map of this sort showing  
10                  exactly where it stands, where the districts are, the  
11                  townships are that are involved, and therefore initiated  
12                  the destination request because I felt that we had to  
13                  get some professional people in there and have a full  
14                  environmental assessment on the area before it was  
15                  issued for timber extraction.

16                  MADAM CHAIR: Mr. Nixon, your first  
17                  request for a bump up in 1987 was for road access?

18                  THE WITNESS: Well, yes, that --

19                  MADAM CHAIR: And now you are asking for  
20                  the bump up to be applied to the entire timber  
21                  management plan.

22                  THE WITNESS: Yes. Well, when I was  
23                  first -- when I first heard of the word "bump up", and  
24                  that was a terminology I guess that the MNR uses, they  
25                  are under the impression that it means just for primary

1 roads and timber access. And after consulting with Mr.  
2 Lindgren and so on, and I believe he's under the  
3 impression that this is a fine line here, that in effect  
4 the people are really saying that it applies to a full  
5 environmental assessment issue, not just be for the  
6 timber and for the roads, and I think that is something  
7 that would have to argued in a court of law.

8 Am I correct?

9 MADAM CHAIR: I don't think you'll get an  
10 answer from Mr. Lindgren. Thank you.

11 MR. LINDGREN: Q. Did you receive a reply  
12 from the Ministry of the Environment to this letter, Mr.  
13 Nixon? I'm referring to your January 25th, 1990 letter.

14 A. As of yet no, I haven't.

15 Q. And I understand that you've recently  
16 written to the new minister of the environment?

17 A. Yes, I have. And I've also written to  
18 the new premier and the new minister of tourism and the  
19 new minister of Ontario natural resources conveying this  
20 problem.

21 MR. LINDGREN: Madam Chair, I would like  
22 to file this as the next exhibit Mr. Nixon's letter  
23 dated October 2, 1990, to the Honourable Ruth Grier  
24 concerning his designation request pertaining to the  
25 Sault Chapleau and Blind River districts.

1 MADAM CHAIR: That will be Exhibit 1506.

2 How many pages is this exhibit?

3 MR. LINDGREN: It's eight pages,

4 Madam Chair.

5 ---EXHIBIT NO. 1506: Letter dated October 2, 1990 to  
6 The Honourable Ruth Grier, 8 pages

7 MR. LINDGREN: Q. Mr. Nixon, why did you  
8 write this further letter to the minister?

9 A. Well, just that I guess I know a  
10 little bit about the political system and that you have  
11 to keep pressing the issue, and seeing as we have a new  
12 government there may be some new guidelines, and I  
13 wanted to -- you know, this is a very important issue  
14 and I thought it had to be brought to her attention  
15 immediately, that I couldn't wait for them to come to me  
16 because I've been waiting so long now. And I thought  
17 that, well, maybe the new government is going to have a  
18 new outlook on these environmental issues so I wanted to  
19 bring to it her attention so that the people in her  
20 office can continue to monitor the situation and come  
21 back with at least a decision on what is going to  
22 happen.

23 Q. Have you received a reply to this  
24 October 2nd letter?

25 A. No, I haven't.



1                   Q. Now, on the last page of the document  
2                   there is a copy of a letter that we've already seen in  
3                   this hearing, and this is the referral by Mr. Bradley of  
4                   various designation requests to the Environmental  
5                   Assessment Advisory Committee. And in this letter in  
6                   the middle of the paragraph there's an indication that  
7                   there will be a referral for the Timmins Forest Plan,  
8                   the Magpie Forest Plan and the Sault Ste Marie Forest  
9                   Plan, and I think you've indicated clearly that your  
10                  designation request pertaining to not only the Sault,  
11                  but the Chapleau and Blind River districts.

12                         Does that limited referral concern you?

13                   A. Yes, it does, and for the reasons you  
14                   have explained. So I wrote Dr. Byer and explained to  
15                   him that there was an error made by Mr. Bradley and that  
16                   it is not just the Sault Ste Marie Forest Plan, the fact  
17                   it does include the Chapleau and Blind River timber  
18                   management plans.

19                         And as of now they are aware of my request  
20                   and it does not just include Sault Ste Marie but the  
21                   other districts, and as of today I have not received a  
22                   request -- not received an answer on this and I'm still  
23                   waiting for the next stage.

24                   Q. My final set of questions, Mr. Nixon,  
25                   have to do with paragraph 28 of your witness statement,

1 and on page 13 of your witness statement:

2 "I am also concerned over the resource  
3 licensing and allocation decisions made by  
4 the MNR, in the sense that the forest  
5 industry seems to have no difficulty in  
6 obtaining licences to take timber from  
7 large areas of land while I must compete  
8 in a lottery just to obtain moose tags for  
9 my guests."

10 What did you mean by that?

11 A. Well, what I meant was, again the  
12 forest industry has been given priority over the  
13 licensing of the natural resources and what I'm  
14 concerned is that why shouldn't tourism be given the  
15 same opportunity if it -- to bid on these areas and bid  
16 on them in terms of tourism? You know, why is tourism  
17 third man on the totem pole or wherever it stands on the  
18 hierarchy of the value to society?

19 So I'm concerned about their licensing and  
20 using our system whereby we have to go into a tag-share  
21 system with other tourist operators and as a resident  
22 Ontario to apply to a lottery system for a moose tag,  
23 you know, just doesn't make any sense to me. And I want  
24 to be able to compete, or at least I feel that the MTR  
25 should be able to compete on the same levels as the

1. timber companies for the use of this land base.

2 Q. Mr. Nixon, I understand that you have  
3 a very brief video that you would like to show to the  
4 board. Perhaps as we go through the video if there is  
5 any portion or at any stage of the video you would like  
6 it stopped, you can certainly indicate to me and we'll  
7 have it stopped.

8 THE WITNESS: Maybe I can just briefly  
9 explain what I'm going to do.

10 MADAM CHAIR: Excuse me, Mr. Nixon.

11 Do we have a copy of Mr. Nixon's video?

12 MR. LINDGREN: No. As soon as we are  
13 finished with it we'll be filing it as an exhibit.

14 MADAM CHAIR: That's fine. I just  
15 wondered if it was an exhibit.

16 THE WITNESS: Just before we start --  
17 briefly what it's going to do is show an old growth  
18 tree, a very large white pine. It's going to take you a  
19 plane ride starting from the Chapleau District, which is  
20 just east of Megisan which is the next township over,  
21 just a little circle loop down the two townships in  
22 Blind River, swing around underneath Ewan Township  
23 showing you the cutting practices have already taken  
24 place in the clearcuts and then back up into Sherratt  
25 Township looking at what has happened over here.

1                   And that's the route we are taking, it's  
2                   not that long.

3                   MR. LINDGREN: Again, if you want the tape  
4                   stopped at any portion just indicate to me or Mr. Huff.  
5                   There is no audio on this tape, is there?

6                   THE WITNESS: Yeah, there is.

7                   MR. CASSIDY: Videotape. What's the date  
8                   of the video, date?

9                   THE WITNESS: The date of the video, this  
10                  film was taken on October of '89 and then August of  
11                  1990.

12                  MR. CASSIDY: Could you indicate when you  
13                  get to the August, 1990 portion?

14                  THE WITNESS: Yes.

15                  MR. CASSIDY: Thank you.

16                               VIDEO PRESENTATION

17                  THE WITNESS: This is showing the Blind  
18                  River District showing the two townships southeast of  
19                  Mégasin Lake, and as you can see I want to show the  
20                  primary roads and the tertiary roads and secondary roads  
21                  associated with logging practices and the types of  
22                  clearcutting that has taken place.

23                  Madam Chair, if I may say this: The other  
24                  access area to that showing any river system, this is  
25                  again not accessible for canoeing and so on.



1 MS. BLASTORAH: Could you speak up a bit,  
2 we are having trouble hearing you.

3 THE WITNESS: That's the tag -- river  
4 system right there and there's the buffer zone that is  
5 presently allocated on the canoe river.  
6 ---Discussion off the record.

7 MR. LINDGREN: Q. I asked is he  
8 satisfied with the width of that buffer zone, and the  
9 answer Mr. Nixon?

10 A. No, I'm not.

11 There's Megisan Lake in relationship --  
12 I'm sorry, that is Prairie Grass Lake and Megisan Lake  
13 is there at the top of the screen. Show you the  
14 relationship to where we are now. That may or may not  
15 be -- bottom centre. Maybe we can pause it here. If we  
16 can pause it there. If we can just rewind it a little  
17 bit.

18 MADAM CHAIR: Is this Sherratt?

19 THE WITNESS: Sherratt Township now.  
20 Okay. I guess we can stop it there. It's hard to see.  
21 But that's just about on the border of Sherratt and  
22 Carton Township, which would be that hill that you are  
23 looking at, approximately right here.

24 MS. BLASTORAH: Could we ask Mr. Nixon to  
25 mark it since we can't see? Could you just put a mark

1 on the map and we can check it later?

2 THE WITNESS: Okay. (Witness complies.)

3 MR. LINDGREN: You've marked it with a  
4 black pen.

5 THE WITNESS: Blue pen.

6 MR. LINDGREN: Oh, blue pen.

7 MS. BLASTORAH: Thank you.

8 THE WITNESS: Now, there is an instance  
9 that the whole top of the hillside is clear cut, and in  
10 my opinion any type of regeneration the rain, any  
11 extensive rains are going to wash out the top soil and  
12 any type of regeneration would be totally hopeless for  
13 that, and then we can continue on.

14 MADAM CHAIR: When was that site cut,  
15 Mr. Nixon?

16 THE WITNESS: That was cut last year.

17 MADAM CHAIR: 1989?

18 THE WITNESS: Yes.

19 Now, I'm sorry, this gentleman here asked  
20 me when the 1990 filming was. I'm sorry, but it was --  
21 all the stuff in the air was all 1990, August of '90.

22 Okay. There we go. And I'm just going to  
23 show you here, there's after Megisan Lake, which again  
24 is directly across here, and I'll mark an arrow and  
25 you'll see coming up Megisan Lake. You can see the

1 island and there's an example of tertiary road and this  
2 is what our guests see when they are flying in. There  
3 is Megisan lake in the top corner and this is the  
4 primary access road in Sherratt Township.

5 Now, this is the island of Megisan Lake  
6 where our business is at, and the reason for this  
7 photography is just to show the status quo now in that  
8 area and to the east of Megisan Lake. Just pause it for  
9 a moment and I'll explain. This is off spray. We went  
10 up -- can I mark on this map?

11 MS. BLASTORAH: Sure, that's fine.

12 THE WITNESS: This last bit of photography  
13 is taken on top of a hill directly south of Megisan on  
14 the side of Torrance Lake, and I'll put a circle here  
15 roughly where it's at. And we are looking basically  
16 east and southeast in that area.

17 That is looking out towards the Blind  
18 River District. As of yet that hasn't been cut but  
19 that's -- beyond those hills is the two townships in  
20 question in the timber management plan. And that's it.

21 MADAM CHAIR: Mr. Nixon?

22 THE WITNESS: Yes.

23 MADAM CHAIR: With the primary access road  
24 in Sherratt Township how close does the end of that road  
25 come to Megisan Lake?

1 THE WITNESS: Here -- actually this is  
2 Sherratt Township to the west of this line, and so that  
3 road is basically coming like this and it starts its  
4 loop to goes west, and so their plan then is to extend  
5 it further to the north so that they can run their  
6 secondary road, this road here, off of it.

7 So in terms of how far this primary road  
8 is, it's approximately three miles as the crow flies.

9 MADAM CHAIR: Is there as much access to  
10 Megisan Lake as there is from the existing road to the  
11 south?

12 THE WITNESS: I'm sorry, are you inferring  
13 access as a result of this road?

14 MADAM CHAIR: Do people use that road  
15 to --

16 THE WITNESS: -- access Megisan Lake? No,  
17 not as yet.

18 MADAM CHAIR: They don't have a river  
19 system?

20 THE WITNESS: No. As you saw these hills,  
21 it's quite hilly there, and right now it would be  
22 virtually impossible to cut across that terrain to  
23 access Megisan Lake. They would more than likely come  
24 up from the south.

25 MADAM CHAIR: So that access road in fact



1 is not a problem for your operation as access?

2 THE WITNESS: That's right. At this  
3 stage -- which is why the minimum buffer zone, I started  
4 it from Carton Township so that all logging activities  
5 would continue west, and of course these roads would not  
6 be built so therefore access would not become a problem  
7 in this northern section where a lot of this old growth  
8 forest were found.

9 MADAM CHAIR: Thank you.

10 MR. LINDGREN: Q. Mr. Nixon, do you have  
11 any final comments that you would like to make to the  
12 board?

13 A. Yes, I do. Basically I'm concerned  
14 with the whole process of this timber management  
15 procedure, especially relating to tourism values. I'm  
16 strongly for these larger buffer zones and I'm strongly  
17 against forest industry and having carte blanche on  
18 their resource which they've enjoyed for hundreds of  
19 years, and that these are the '90s and that we have to  
20 start looking at these environmental issues more closely  
21 and that this whole timber management planning process  
22 should be slowed down a little bit and greater research  
23 done using our professionals that are out there, like  
24 Mr. and Mrs. Martin, and go a little slower on these  
25 timber management planning procedures and come up with a

1 much sounder -- much sounder plan.

2 And last, but not least, I would like to  
3 address the board on -- what about the trees, you know?  
4 Don't they have a say in this whole process? It may  
5 sound corny but they are a living organism and they have  
6 only given to mankind, they have never taken away. And,  
7 I think I feel they have to have a spokesperson and  
8 whether it's Forests for Tomorrow or the FON or it's  
9 tourism, I think the forest should have a say in these  
10 matters and they have to be protected.

11 Therefore, I would like to thank Forests  
12 for Tomorrow for inviting me here and for you people on  
13 the board to listen to my comments.

14 MADAM CHAIR: Thank you very much,  
15 Mr. Nixon.

16 Do you have any more questions?

17 MR. LINDGREN: No, I do not, Madam Chair.

18 MADAM CHAIR: Why don't we take our  
19 afternoon break now.

20 MR. LINDGREN: Perhaps before we do, there  
21 are two very brief procedural matters. One is we need  
22 an exhibit number for the videotape.

23 MADAM CHAIR: Oh, I thought you told me it  
24 was in Exhibit 1435.

25 MR. LINDGREN: No, that was Mr. Kapel's

1 tape. This tape has not been filed to this point.

2 MADAM CHAIR: All right. This will be  
3 Exhibit No. 1507.

4 MR. LINDGREN: Thank you.

5 ---EXHIBIT NO. 1507: Videotape

6 MR. LINDGREN: Thank you.

7 Madam Chair, the second matter relates to  
8 the matter I raised at 9:00 this morning, and that had  
9 to be do with the issue of supplementary interrogatory  
10 for Panel 3. I've just been handed a note that that  
11 matter has been dealt with by Ms. Swenarchuk and Ms.  
12 Cronk and that therefore there is no need to meet at  
13 4:00 this afternoon.

14 MADAM CHAIR: That's good news, thank you,  
15 Mr. Lindgren.

16 MR. CASSIDY: I also received a note about  
17 that, Madam Chair, Mr. Martel, that while it has been  
18 resolved to this point Ms. Cronk would like it noted  
19 that it was resolved by way of agreement that materials  
20 will be provided by this Friday. She would also like it  
21 noted if those materials do not satisfy her concerns  
22 that it may be brought forward before the board at a  
23 subsequent date, but that is the information I have.

24 MADAM CHAIR: Thank you, Mr. Cassidy.

25 THE WITNESS: Excuse me, Madam Chair. I

1 just noticed on my table that -- I guess I should have  
2 brought this up earlier, but there is an article  
3 supporting some of my statements regarding where tourism  
4 is heading in Ontario. There's an article from this  
5 morning's Toronto Star supporting some of the things  
6 about the European tourists and value of tourism to the  
7 economy and possibly -- I don't know if it's too late to  
8 submit this or perhaps someone could look at it.

9 MADAM CHAIR: We can certainly --

10 LINDGREN: We can file it as an exhibit.

11 MADAM CHAIR: All right. That's fine, Mr.  
12 Nixon.

13 ---EXHIBIT NO. 1508: Newspaper article from The Toronto  
14 Star dated October 31, 1990

15 MR. LINDGREN: And Mr. Nixon --

16 MADAM CHAIR: Mr. Cassidy, did you want a  
17 copy of this or did you read it?

18 MR. CASSIDY: Well, I read the  
19 Globe and Mail and I was wondering if maybe I could  
20 read it at a later date.

21 MR. LINDGREN: Q. Mr. Nixon, are there  
22 any portions in this article that you are relying upon  
23 or that you would like to refer the board to?

24 A. Yes, sir. Basically the first  
25 paragraph, that these trends are the new wave of the



1 '90s, and also about half-way down they mention that  
2 tourism is the province third largest producing industry  
3 at 11.7 billion and that MTR is trying to sell the  
4 province's environment down, and I believe it's --

5 Q. Are you referring to the third bullet  
6 point?

7 A. Third bullet point, yes. What people  
8 are looking for are clean air and wilderness, which is  
9 exactly what we are trying to do over in Europe and with  
10 other user groups such as educational groups, et cetera.

11 Thank you very much.

12 MADAM CHAIR: Thank you. Mr. Cassidy,  
13 we'll take our afternoon break now and be back at 3:00.

14 MR. CASSIDY: I don't anticipate being  
15 very long.

16 MADAM CHAIR: All right. Ms. Blastorah,  
17 do you think you can finish?

18 MS. BLASTORAH: I will certainly do my  
19 best. I hope I won't be too long. I don't know if Ms.  
20 Seaborn--

21 MADAM CHAIR: Ms. Seaborn, do you have any  
22 questions?

23 MS. SEABORN: I would like to consult with  
24 Ms. Dahl over the break. If I have any questions it  
25 will only be one or two.

1 MADAM CHAIR: Thank you.

2 MS. BLASTORAH: Under the circumstances,  
3 Mrs. Koven -- I don't know what the board's plans are,  
4 but since there is no scoping certainly I'm available if  
5 there is a problem. I'm available to run late. I don't  
6 know whether that helps, but I'll certainly try to  
7 finish by 4:00 p.m.

8 MADAM CHAIR: Mr. Nixon, had you planned  
9 to leave Toronto this evening?

10 THE WITNESS: No.

11 MADAM CHAIR: All right. Hopefully we'll  
12 be finished very close to 4 o'clock.

13 ---Recess taken at 2:43 p.m.

14 ---On resuming at 3:00 p.m.

15 MADAM CHAIR: Please, be seated.

16 Mr. Lindgren?

17 MR. LINDGREN: Yes, Madam Chair, I have an  
18 outstanding undertaking from this morning that I would  
19 like to be mark as an exhibit. I had undertaken to  
20 count the number of pages in Exhibit 1503, and as far as  
21 I can determine there are 37 pages.

22 MR. HUFF: That's a very quick turn  
23 around.

24 --Discussion off the record.

25 MS. BLASTORAH: I should advise, Mrs.

1 Koven, in the exhibits that I had filed this morning I  
2 think as Exhibit 1498 and 1500, I did put copies on the  
3 board's desk.

4 MADAM CHAIR: We have them. Thank you.

5 MS. BLASTORAH: And I also provided copies  
6 to the other parties.

7 MADAM CHAIR: Mr. Cassidy.

8 CROSS-EXAMINATION BY MR. CASSIDY:

9 Q. The first thing I just want to  
10 clarify, Mr. Nixon, is that the timber management plans  
11 that you described being involved in the planning  
12 process for is in relation to the crown management  
13 units, is that correct?

14 A. Yes.

15 Q. And I want to turn to Exhibit 1505 of  
16 this report that you filed. And I'm just looking at the  
17 statement that was prepared as a result of data gathered  
18 over the course of three days, which are the 5th, 6th  
19 and 7th of September found on page 3 of the report, and  
20 you indicated that you assisted the authors of this  
21 report and the collection of that data?

22 A. That's correct.

23 Q. Now, looking at Exhibit 1504, as I  
24 understand it just by reviewing this report there were  
25 three plots, and I think you described that in your

1 evidence this morning that these authors visited; is  
2 that correct?

3 A. That's correct.

4 Q. I wonder if you might mark -- you  
5 roughly indicated them earlier this morning. I wonder  
6 if on the exhibit you might mark them with an X and a  
7 number beside it, X1, X2, X3, where exactly on there  
8 that they reviewed the area.

9 A. (Witness complies.)

10 Q. Pen work?

11 A. Yes.

12 Q. All right. So you've marked all three  
13 plots on this map; is that correct?

14 A. Yes, sir.

15 Q. Dealing with the plots which we'll  
16 call the first plot or X1, can you give me an idea, and  
17 you may be able to do it simply by looking at the scale  
18 on the map, how far that is from Megisan Lake?

19 A. How far X1 is from Megisan Lake?

20 Q. Yes.

21 A. It's approximately two miles.

22 Q. Okay. And the second plot, or known  
23 as X2 on the map?

24 A. X2.

25 Q. How far is that from Megisan Lake?



1 A. As the crow flies, or how I get into  
2 that area?

3 Q. All right, give me both.

4 A. Crow flies, approximately four miles.

5 Q. Is that from your lodge?

6 A. Yes.

7 Q. How far is it from the extreme north  
8 end of Megisan Lake?

9 A. Extreme north end of Megisan Lake,  
10 would be roughly two and a half miles.

11 Q. And the third plot which you've marked  
12 as X3, am I correct that it is only partially shown on  
13 this map and there's a further portion which is off the  
14 map to the east?

15 A. Yes, we would look into the Chapleau  
16 District.

17 Q. And how far is that -- how far is the  
18 westerlymost part of that plot to Megisan Lake?

19 A. Where the island is to the lake?

20 Q. Well, let's go to the lake property.

21 A. That area -- that would be  
22 approximately two miles.

23 Q. And dealing with the first plot, how  
24 big was it in terms of geographic size?

25 A. I think we have to utilize the method

1       used in which --

2                   Q.   Okay.  If we go to page 27 of that  
3       exhibit, Exhibit 1505, would I be correct that the area  
4       sampled referenced at the bottom -- I'm sorry -- the  
5       upper left-hand portion of page 27 at the bottom of the  
6       graph on that page, would I be correct that the  
7       reference to area sampled being 0.23 acres is in fact  
8       the amount of the plot or the size of the plot?

9                   A.   Yes.

10                  Q.   If we move then to page 32, Madam  
11       Chair, Mr. Martel and Mr. Nixon, would I be correct that  
12       the reference to the area sampled, being 0.23 acres, is  
13       the size, geographical size of the plot which you've  
14       marked as X2?

15                  A.   Yes.

16                  Q.   And similarly with respect to page 37  
17       of this Exhibit 1505, Madam Chair, Mr. Martel and Mr.  
18       Nixon, is that reference to the area sampled 0.23 acres?  
19       Is that the geographical size of the plot you've marked  
20       on the board as X3?

21                  A.   Yes.

22                  Q.   Is the report, Exhibit 1505, to your  
23       knowledge -- I understand you are not the author, but is  
24       the report designed to be referenced or is it designed  
25       to cover the whole of the Megisan Lake area?

1                   A. What do you consider the Megisan Lake  
2 area?

3                   Q. I don't know. I might ask you or the  
4 authors that question, because they say on page 10 in  
5 their discussion and conclusions that the forest is  
6 particularly significant in that it has never been cut.  
7 Its soil has never been disturbed or completed by the  
8 logging and in the paragraph immediately above it it  
9 refers to in the Megisan Lake area.

10                  And if I could refer you also just so  
11 we -- sorry -- that would be what I was curious about.

12                  I'm sorry. If we go back to page 1 right  
13 in the introduction, Madam Chair, you'll see the second  
14 paragraph talks about the Megisan Lake area and it talks  
15 about the vicinity of Megisan Lake in the first  
16 paragraph. So hence my curiosity, Mr. Nixon, as to what  
17 area this report has meant to cover in light of what  
18 those plots are.

19                  A. Well, it's meant to cover Carton  
20 Township which would then be assumed as the Megisan  
21 Lake -- the immediate Megisan Lake area.

22                  Q. Is it meant to cover any other  
23 township other than Carton Township?

24                  A. Well, I believe it's meant as a  
25 guideline to explain to people like yourself what to

1 . expect in other townships associated to this region.

2 Q. All right. So it has applicability  
3 beyond Carton Township then to the other townships in  
4 your proposal; is that fair?

5 A. Yes.

6 Q. And that would be your revised  
7 proposal of the nine townships that you referred to?

8 A. That's correct.

9 Q. So your evidence is that it is  
10 applicable in some fashion to those townships as well as  
11 Carton; is that correct?

12 A. Yes.

13 Q. Now, I want to ask you about the bump  
14 up request made that you discussed. This arises out of  
15 Mr. Martel's question because I'm still in the same  
16 confusion.

17 My understanding of your witness  
18 statement, you attended the meeting on March 3rd, 1989,  
19 that is the open house, and by my understanding of the  
20 material in the appendix and the witness statement you  
21 then, on March 20th, wrote and requested the bump up of  
22 the timber management plans discussed at that open house  
23 and you indicated you had made some request earlier.

24 Can you clarify for me where or what  
25 evidence there was that you made a timber management



1 bump up request at an earlier date than March 20th,  
2 1989?

3 A. Actually I was informed by Mr.  
4 Lindgren that that request was not made prior to that  
5 first one that you mentioned; that was an error on my  
6 part.

7 Q. That's fine. So --

8 A. And that there was discussions made  
9 for me to talk to the, or write to the environmental  
10 minister to ask for a designation.

11 Q. So as I understand it then, if I can  
12 get the chronology right, the meeting occurred on March  
13 3rd, '89, as Mr. Martel noted, and then the bump up  
14 request was made 17 days later on March 20, 1989  
15 pursuant to your letter of that date to Mr. Lissard who  
16 subsequently advised you as to who to make the request  
17 to. Is that the correct chronology now?

18 A. Yes.

19 Q. Another question which arises out of  
20 Madam Chair's questions. You were referring to a road  
21 at what I might call the south end of Megisan Lake which  
22 you suggested causes your access problems because it's  
23 two and a half miles away from the lake. Do you recall  
24 giving that evidence?

25 A. Yes.

1 Q. What was the name of that road?

2 A. Torrance Lake Road.

3 Q. And in your view, two and a half miles  
4 is not sufficient, is that correct, to prevent the type  
5 of problems you described to the board?

6 A. That's correct. I mean, that's not  
7 two and a half miles by land. You know, there's water  
8 there. Once you get to the water then it's an easy  
9 traverse up to Megisan Lake.

10 Q. It's two and a half miles to some  
11 water body that leads into Megisan Lake?

12 A. Correct.

13 Q. So, how far is it from Megisan Lake?

14 A. Well, there's Torrance Lake so you  
15 would have to take the -- motor up the lake and portage  
16 a hundred yards. If you look at land base it's like a  
17 hundred yards from Megisan Lake. Now, if you are saying  
18 that access road was two and a half miles by land it's a  
19 different situation.

20 Q. Well, how far is the access road from  
21 Megisan Lake? Ignore the water bodies for the moment.  
22 Assume someone wanted to go off that road by land to  
23 Megisan Lake. How far would they have to travel?

24 A. You are looking at approximately two  
25 miles of water body to the shores of Megisan Lake.

1 Q. All right. Two miles is about five  
2 kilometers; is that correct?

3 A. I'm not up on my metric.

4 Q. You are not in a position to disagree  
5 with me if I tell you it's about about five kilometers.

6 A. No.

7 Q. Let me understand something. Your  
8 suggestion is that that road should be removed and  
9 access would still be allowed for individuals by way of  
10 canoe to Torrance Lake to Megisan Lake. Is that your  
11 evidence?

12 A. Well, not from Torrance Lake. If that  
13 was removed obviously access wouldn't be available  
14 through other access points on what's called Wenebagon  
15 River.

16 Q. So if that road was removed then, am I  
17 correct that the only access to Megisan Lake would be by  
18 canoe or by your fly-in service?

19 A. That's correct.

20 Q. So if someone chose not to canoe up  
21 their only alternative would be use your fly-in service  
22 to access Megisan Lake; is that correct?

23 A. Not my fly-in service, but a fly-in  
24 service or utilize their own aircraft or --

25 Q. Canoeing doesn't cost very much, does

1 it?

2 A. It depends. If you take a canoe  
3 package when you're flown in to a remote area then it  
4 costs accordingly.

5 Q. It's the fly-in portion that's the  
6 expensive part; is that correct?

7 A. Yes.

8 Q. So is it fair to say the fly-in access  
9 would be more expensive than canoe access by itself?

10 A. I guess so, yes.

11 Q. And if someone was not able to afford  
12 the fly-in service it would effectively only be limited  
13 to canoeing, according to your proposal?

14 A. That's correct.

15 MR. CASSIDY: Now, those are all the  
16 questions I have, Madam Chair, save and except to  
17 reiterate my position that if it is Forest for Tomorrow  
18 or this witness' intention to use Exhibit 1505 in any  
19 way to support the statements as a valid document, those  
20 are the words of the witness, and if it is their intent  
21 to use that document for anything other than simply  
22 stating that it exists and in support of their position,  
23 then we object to the fact that there has not been a  
24 witness provided who can speak to that document.

25 Those are my questions.



1 MADAM CHAIR: Thank you, Mr. Cassidy. Ms.  
2 Seaborn?

3 MS. SEABORN: No questions, Madam Chair.

4 MADAM CHAIR: Ms. Blastorah.

5 MS. BLASTORAH: I would like to begin by  
6 filing two documents, Mrs. Koven. The first is a  
7 package of interrogatories, and these are Ministry of  
8 Natural Resources interrogatories in relation to  
9 document No. 4 in Panel 2 and they are MNR's nos. 1, 2,  
10 3, 6, 9, 10, 11 and 12.

11 MADAM CHAIR: That will be Exhibit 1509.

12 MS. BLASTORAH: 500 --

13 MADAM CHAIR: -- 9.

14 MS. BLASTORAH: -- 9. Thank you.

15 ---EXHIBIT NO. 1509: Ministry of Natural Resources  
16 Interrogatories in relation to  
Document 4, Panel 2

17 MS. BLASTORAH: Secondly, I have a  
18 two-page document which is a chronology of principal  
19 events, and I had the opportunity to show this to Mr.  
20 Lindgren this morning and the witness reviewed it over  
21 the break, over lunch, and Mr. Lindgren has advised that  
22 he and Mr. Nixon are in agreement with our filing this  
23 as an agreed chronology.

24 MADAM CHAIR: That will be Exhibit 1510.

25 MS. BLASTORAH: And, again, this is not

1 intended to be an exhaustive chronology including all  
2 the events, it's just intended to help identify some of  
3 the principal events in relation to this witness's  
4 evidence.

5 ---EXHIBIT NO. 1510: Two-page document, chronology of  
6 principal events.

7 MS. BLASTORAH: And I should point out  
8 when Mr. Lindgren advised me that they were in agreement  
9 with this document, the original chronology read  
10 "Purchase by the Nixons of Megisan Lake Lodge" as being  
11 in March 1974, and that was taken from the Response to  
12 Ministry of Natural Resources Interrogatory No. 3,  
13 consistent with Mr. Nixon's evidence this morning. I  
14 understand that he has now confirmed that he actually  
15 purchased the lodge in the spring of 1973. So we've  
16 amended the chronology accordingly.

17 Is that correct, Mr. Nixon?

18 THE WITNESS: Yes.

19 MS. BLASTORAH: Thank you.

20 THE WITNESS: The only thing you may add  
21 to that is that you spelled Megisan wrong.

22 MS. BLASTORAH: Oh, I'm sorry.

23 THE WITNESS: It should be M-e-g-i-s-a-n.

24 MS. BLASTORAH: Oh, my typing. A fast  
25 effort, I'm afraid.

1        CROSS-EXAMINATION BY MS. BLASTORAH:

2                    Q.   I would just like to turn quickly to  
3        an item that Mr. Cassidy touched on, Mr. Nixon, and that  
4        was the -- I believe Mr. Cassidy touched on this, the  
5        areas dealt with in the report. And I would just like  
6        to turn to a comment I think that was made in the report  
7        or perhaps in your evidence.

8                    In any event, I think you said that  
9        Megisan Lake area is a unique area that has never been  
10       logged, and you had some discussion about what the  
11       Megisan Lake area is. And I would just like to clarify,  
12       looking at the map we have here of Carton and Ewan  
13       Township, that's the area you identified as the  
14       immediate vicinity of Megisan Lake; is that correct?

15                   A.   Well, yes. I wouldn't say that was  
16       all of Carton, of course, but I wouldn't consider part  
17       of -- I mean, just part of the top, northern portion of  
18       Ewan Township --

19                   Q.   As being the vicinity.

20                   A.   -- as being the vicinity of Megisan  
21       Lake because obviously south of Ewan Township where the  
22       hydro line exists there has been logging activities 40,  
23       50 years ago or whatever.

24                   Q.   I see. And am I correct, or it's my  
25       information that there was in fact logging in Carton

1 Township as well I believe in the 1960s. Can you  
2 confirm that?

3 A. No.

4 Q. Perhaps if you could look on the map  
5 there you'll see there are some dotted lines  
6 representing what I believe are forest access roads.  
7 Maybe you could just advise whether --

8 A. This map here?

9 Q. Yes. Maybe I'll just point out to you  
10 what I am speaking about. And you've indicated you are  
11 not able to confirm that there may have been logging in  
12 Carton Township.

13 Can I ask you to confirm that there is a  
14 road indicated on that map on the southeast corner of  
15 Carton Township. Are you familiar with that road or  
16 trail that's marked on there?

17 A. This one?

18 Q. The one I've just pointed out to you,  
19 and perhaps we can indicate that with a red line.

20 MR. LINDGREN: That's Exhibit 1504.

21 MS. BLASTORAH: I'm sorry. Yes, this is  
22 Exhibit 1504, which is the FRI map.

23 THE WITNESS: You want me to draw the line  
24 on it?

25 MS. BLASTORAH: Q. If you could just



1 indicate roughly where it is. So Mr. Nixon is  
2 indicating that trail -- perhaps you could just indicate  
3 the length of it.

4 A. (Witness indicating.)

5 MS. BLASTORAH: And Mr. Nixon is  
6 indicating on Exhibit 1504 by marking with a red line.

7 Q. Are you able to confirm, Mr. Nixon,  
8 that there is a road or a trail of some kind there?

9 A. I can confirm there is a trail there.

10 Q. And you don't know the source of that  
11 trail or do you?

12 A. I was under the impression it is a  
13 fire road, a fire road that was put in years ago.

14 Q. So you can't confirm one way or the  
15 other whether it was an access road if I were to ask you  
16 would you be able to describe --

17 A. No, I wouldn't be able to comment on  
18 that.

19 Q. Okay. Thank you.

20 You indicated then, I believe, that the  
21 southern portion of Ewan Township would not be what you  
22 would consider in the vicinity of Megisan Lake; is that  
23 correct?

24 A. That's correct.

25 Q. And so am I correct that the Torrance

1 Lake Road, which is indicated there by a black line on  
2 the map which is Exhibit 1504, that I believe was  
3 originally a forest access road constructed in the early  
4 1960s; is that correct?

5 A. Well, I can't say, yes it was for  
6 forest extraction. I was under the impression it was an  
7 access road for -- a fire access road because there was  
8 a burn there, a large burn in the vicinity below Ewan  
9 Township or over into the Blind River District and that  
10 road was a fire access road. I cannot say that it was  
11 for timber extraction.

12 Q. So you can't say one way or the other?

13 A. No. Other than I was told it was  
14 for -- it was a fire access road.

15 Q. Okay. Thank you.

16 And am I correct that that road, the  
17 Torrance Lake Road, has been abandoned and is in fairly  
18 poor condition?

19 A. Yes to the first part and no to the  
20 second part. In my opinion, I don't think it is in very  
21 poor condition right now. Would you like me to explain  
22 why I think that?

23 Q. If you wish.

24 A. Well, first of all, I just flew out of  
25 that area this month, middle of this month, and I was

1 actually going to call the ministry in Sault Ste Marie  
2 to find out if there has been some upgrades because from  
3 the air -- and I know there is some deception with  
4 leaves falling, et cetera, et cetera. But just from my  
5 flying over and out of my camp and flying out in this  
6 vicinity, it looked like there was some sort of -- it  
7 looked like some sort of upgrade, but of course I'm at  
8 2,000 feet in elevation.

9 So again, with the leaves gone and so on  
10 it's hard to say one hundred percent that it has been  
11 upgraded. I was assured by Mr. Lissard that they have  
12 no plans to upgrade it and I hadn't travelled on the  
13 road for a number of years and last year, summer of last  
14 year I rented a van, an Econoline van, and I was able to  
15 get to the access point at Torrance Lake. Mind you, it  
16 was a little bumpy and I couldn't travel very fast on it  
17 but again I'm using the Econoline van, not a four-wheel  
18 drive vehicle, so that is why I said I don't  
19 particularly agree that it is, you know, as you say,  
20 totally abandoned or it's eroding rather quickly.

21 Q. Actually what I said was in poor  
22 condition.

23 A. In poor condition.

24 Q. Thank you.

25 And just to confirm then or to clarify,

1       you don't have any personal knowledge that any upgrading  
2       was done on this road apart from your observations from  
3       2,000 feet?

4               A. Other than that, I believe they did  
5       some upgrading this year, I've brought a forward to the  
6       ministry I think it was the first half mile to a mile  
7       from the hydro -- this is a hydro line right here. This  
8       is the hydro line coming down.

9               Q. And you're indicating a point  
10       travelling from the --

11              A. There's another road that sort of  
12       comes along here. I presume -- it's apparently a very,  
13       very good road, life expectancy forever and ever. And  
14       it's been upgraded all kinds of times. It comes along  
15       this way and then access to this road runs off of that.

16              Now, I was informed by the ministry that  
17       there was some harvesting, timber harvesting in this  
18       immediate area and it looked to me like an upgrade was  
19       done in order to extract the timber.

20              Q. And again, you don't have any  
21       confirmation one way or the other?

22              A. No. And I travelled on it last summer  
23       and again I travelled on it with an Econoline van. So  
24       to me there was -- a road that's been abandoned for 30  
25       years, didn't look too badly out of shape to me.



1 MS. BLASTORAH: Okay. And just on the --  
2 just for the record, Mr. Nixon was indicating an area on  
3 the southwest corner of the map, which is Exhibit 1504,  
4 roughly to the southwest on that map of the last  
5 coloured area of that corner.

6 Q. Now, you stated in your evidence this  
7 morning or this afternoon, I'm not sure which, Mr.  
8 Nixon, that you had a concern that the Sault Ste Marie  
9 District has no tourism strategy.

10 Would you turn to appendix H in your  
11 material, the third page of that appendix. Do you have  
12 that? It looks like this. Your appendix H.

13 A. Yes.

14 Q. Okay. Your appendix H is a letter  
15 dated April 17th, 1989, from Mr. Lissard to George and  
16 Brenda Nixon; correct?

17 A. Yes.

18 Q. And can you confirm that this was a  
19 document appended to that letter?

20 A. Yes.

21 Q. This third page was appended to that  
22 letter?

23 A. Yes.

24 Q. And am I correct that that document  
25 indicates under "Advisors", and this is a document

1       that's outlining the integrated resource management  
2       team; correct? That's what it says at the top.

3                   A. Yes.

4                   Q. And under "Advisors" the name is  
5       included "Ministry of Tourism and Recreation, J. Payne";  
6       correct?

7                   A. That's correct.

8                   Q. And is that the Mr. Payne you referred  
9       to this morning?

10                  A. Yes, it is.

11                  Q. Thank you.

12                  And would you agree then that Mr. Payne  
13       was a member of the district advisory committee?

14                  A. Yes. I believe he was asked to  
15       participate.

16                  Q. Would you agree with me this is what  
17       that document indicates?

18                  A. Yes.

19                  Q. Thank you.

20                  Would you also agree that on that same  
21       document there is an name, E. Fuller, Tourism Industry?

22                  A. Yes.

23                  Q. Am I correct that's Eileen Fuller?

24                  A. Yes, that's correct.

25                  Q. And it's my information that Mrs.

1 Fuller or Ms. Fuller, I'm not sure, is a remote tourism  
2 operator; is that correct?

3 A. That's correct.

4 Q. And she was the remote tourism  
5 representative on the district advisory committee; is  
6 that correct?

7 A. That's correct.

8 Q. Thank you.

9 Now, this morning Mr. Lindgren took you to  
10 paragraph, I believe it was paragraph 6 in your witness  
11 statement, and a comment there which you make on page 4  
12 of your witness statement. There's a comment where you  
13 say, "To the best of my knowledge the..." I'm sorry,  
14 that's not the right comment.

15 I believe he took you the sentence:

16 "I spend approximately six months of the  
17 year in the bush and I have yet to meet an  
18 MNR biologist in the field in the Megisan  
19 Lake area."

20 Do you recall that conversation with  
21 Mr. Lindgren?

22 A. Yes.

23 Q. Now, in paragraph 3 of your witness  
24 statement, which is on page 2, you refer to lake trout  
25 research programs being carried out by the Ministry of

1 Natural Resources and the Department of Fisheries and  
2 Oceans on Megisan Lake; correct?

3 A. Yes.

4 Q. Can you confirm that the Ministry of  
5 Natural Resources staff involved in that work have  
6 stayed at your lodge in the spring, summer, and fall  
7 since at least 1981?

8 A. Not in consecutive years, but, yes,  
9 they have stayed at our lodge, yes.

10 Q. So would you agree with me that some  
11 of those staff are probably biologists or other  
12 technical people involved in that study?

13 A. They are -- they were some fisheries  
14 biologist. My comment on biologist should be referred  
15 to as timber ecologists biologists. I don't know what  
16 the terminology should be there, but we are talking --  
17 are we talking fisheries or are we talking timber?

18 Q. Well, I don't know, Mr. Nixon. You  
19 said biologists, so maybe you can tell me what you meant  
20 by that.

21 A. Well, we are dealing here -- with this  
22 process we are dealing with timber. We are not dealing  
23 with the fisheries program here. We are dealing with  
24 timber.

25 Q. So you didn't intend it --



1                   A. I didn't intend it to be no  
2 biologists, meaning no fisheries biologists or no  
3 wildlife biologist. I'm intending it to imply forest  
4 ecologists or professional forest people.

5                   Q. Thank you.

6                   A. Because I'm relating to on-site  
7 studies of inventory for the forest, not fisheries.

8                   Q. And I would just like to confirm one  
9 other item.

10                   You did indicate in that paragraph that  
11 you spend approximately six months of the year in the  
12 bush, and I believe in an answer to one of the  
13 interrogatories you indicated that you spend the  
14 off-season, if you will, the non-tourism season, in  
15 Uxbridge; is that correct?

16                   A. That's where I reside, but in the  
17 off-season I'm out promoting tourism.

18                   Q. I see. So you are not in the Megisan  
19 Lake area in the off-season?

20                   A. No, I'm not.

21                   Q. Thank you.

22                   Now, in that same paragraph but on page 3,  
23 Mr. Lindgren took you to a comment where you say:

24                   "Until recently I have not been asked to  
25 contribute to or participate in the timber

1 management planning process."

2 And when you made that comment, I take it  
3 that you were intending to refer to formal invitations  
4 to participate, such as the one you received in October  
5 of 1988. Because it's my information that in fact  
6 you've had quite a bit of correspondence and meetings  
7 and so on with the ministry; is that correct?

8 A. I have had quite a few meetings  
9 since -- for 17 years relating to many issues; not  
10 timber management planning but as we talked earlier,  
11 fisheries, stocking programs, et cetera.

12 Logging wasn't an issue 17 years ago, and  
13 no consultation through the MNR or myself related to  
14 those issues. It was all a fisheries issue, relating to  
15 fisheries, trout habitat and restocking, et cetera.

16 So in answer to your question, I have had  
17 lots of talks with the MNR on various issues, but not  
18 timber issues until recently.

19 Q. I take it you haven't felt constrained  
20 in raising any issues that you may have with the  
21 ministry; is that correct?

22 A. No.

23 Q. Thank you.

24 A. I have a fairly good rapport with  
25 them.

1 Q. Thank you very much.

2 Now, you indicated that at the March 30th  
3 and 31st open house you -- I believe this is what you  
4 said this afternoon, that your map of your proposal was  
5 on display at the March open house; is that correct?

6 A. Yes.

7 Q. And I think you indicated that it was  
8 put up but that you weren't advised it was going to be;  
9 is that correct?

10 A. It was left on display from a -- how  
11 do I say this -- tourist outfitters meeting that was  
12 held prior to this open house. So the nine township map  
13 was left out for the next meeting which was in the  
14 evening to allow these other people to come in and look  
15 at various proposals by the lumber industry and  
16 fisheries, et cetera, et cetera, and that is how it got  
17 displayed.

18 Q. And that was on the -- at the open  
19 house which was held on March 30th and 31st and the  
20 evening sessions; is that correct?

21 A. Yes.

22 Q. And would you turn to appendix E  
23 in your documentation, please.

24 Now, this is timber management planning  
25 meeting minutes for a meeting of March 15th, 1989;

1 correct?

2 A. Yes. Appendix E, yes.

3 Q. And you agree that's what this is?

4 A. Yes.

5 Q. Would you refer to the third  
6 paragraph -- it's not the one numbered 3 but the third  
7 paragraph down -- beginning "R. Lessard". Do you have  
8 that? It's on the first page of appendix E.

9 A. Yes.

10 Q. That paragraph reads, "R. Lessard..."  
11 Now, that would be Mr. Lissard, the district manager?

12 A. Yes.

13 Q. "...suggested that the map showing the  
14 nine townships marked off as a reserve  
15 (supplied by G. Nixon) be put on display  
16 at the information centre for public  
17 review. Don Fry..." and am I correct  
18 that Mr. Fry is a representative of the forest industry  
19 on the district advisory committee?

20 A. Yes.

21 Q. "...Don Fry suggested that all  
22 interest groups within TNP provide their  
23 particular proposals in either written or  
24 map form for the info centre and have a  
25 rep to be on hand to explain these



1 proposals to the public during the open  
2 house. Chairman to notify E. Fuller."

3 And that would be Mrs. Fuller that we spoke of earlier?

4 A. That's correct.

5 Q. And she's the tourism rep on the  
6 district advisory committee; correct?

7 A. Yes.

8 Q. "Chairman to notify E. Fuller to  
9 enable a representative of the tourist  
10 operators to be on hand to interpret their  
11 proposal map for the public during the  
12 info centre."

13 You agree that's what those minutes  
14 indicate?

15 A. Yes.

16 Q. And I understand that both Mrs. Fuller  
17 and yourself attended both days of the information  
18 centre; is that correct?

19 A. Yes.

20 Q. And you were on hand to answer any  
21 questions in relation to your proposal?

22 A. That was at the March 30th information  
23 centre?

24 Q. Yes, that's correct.

25 A. Yes.

1 Q. And I assume that if anyone questioned  
2 you about the proposal you discussed it with them; is  
3 that correct?

4 A. Yes.

5 Q. Thank you.

6 Now, you indicated in your response to  
7 Ministry of Natural Resources Interrogatory No. 8-C that  
8 there was opposition to your proposal at this  
9 information centre in March but that you felt that there  
10 was a lot of response to your proposal at the open house  
11 in November; that's correct?

12 A. Yes.

13 Q. And I think this morning you referred  
14 to some documentation in the answer to that  
15 interrogatory, which was public information centre  
16 comment sheets filed by you in response to that  
17 interrogatory; correct?

18 A. Yes.

19 Q. And those were from the November  
20 information centre?

21 A. That's correct.

22 Q. And those were the comment sheets that  
23 you felt indicated support for your position; is that  
24 correct?

25 A. Well, it was a section of comments

1       that -- well, as you described, interrogatories -- there  
2       were negative comments and obviously positive comments  
3       and we wanted to display the positive side of it.

4                   Q.   So those are a selection of some of  
5       them?

6                   A.   Yes.

7                   Q.   Now, it's my information you visited  
8       the -- I have a number of comments sheets and I have a  
9       few more that were copied by you at the same time. I  
10      would like to show these to you, and I apologize, Mr.  
11      Lindgren, I hadn't intended to refer to these so I  
12      didn't have them copied. But I understand Mr. Nixon  
13      already has copies of them from his visit to the  
14      district office and I'll make them available to be  
15      marked as an exhibit.

16                   Do you have the balance of the information  
17      centre sheet comments that you copied from that visit  
18      with you here today?

19                   A.   No.

20                   Q.   Okay. Well, perhaps I could just show  
21      you the copies I have. These are public information  
22      centre comment sheets filled out by three members of the  
23      public whose names are given as Ron Sharpe, S-h-a-r-p-e,  
24      C.J. Blatter, I believe it is, B-l-a-t-t-e-r, and Terry  
25      Sharpe, S-h-a-r-p-e.

1                   Would you agree with me, Mr. Nixon -- and  
2           I'll give you a minute to review those -- that those  
3           comment sheets indicate at least some indication of  
4           continuing opposition to your proposal to set aside nine  
5           townships as a reserve for tourism; is that correct?  
6           And take your time to review those.

7                   And again, when you are finished reviewing  
8           it, Mr. Nixon, my question is simply: Would you agree  
9           that those public comment sheets indicate some  
10          continuing disagreement with your proposal?

11                  A. I'm trying to find on these three  
12          documents where these people are suggesting opposition  
13          to the nine townships. I only see opposition to the  
14          closing of the Torrance Lake Road.

15                  Q. Well, perhaps then I can refer you to  
16          the sections I'm speaking of. If I could just borrow  
17          the document back again.

18                  Now, the first document here -- and I'll  
19          give it back to you if you wish to confirm this -- has a  
20          note on the left-hand side, "Megisan Lake", and the  
21          comment immediately adjacent to that is:

22                         "My comments are simple. This is not a  
23                         private lake or land. The taxpayers'  
24                         money is used to build these roads and  
25                         taxpayers should be allowed to use it."

1 Do you recall that note being there, Mr.  
2 Nixon, or would you like to see the document?

3 A. Yes.

4 Q. And you would agree with me that part  
5 of your reserve proposal calls for no roads in the  
6 reserve area; is that correct?

7 A. That's right.

8 Q. And no harvesting as well?

9 A. That's right. But my question is that  
10 he is referring -- they are referring to the Torrance  
11 Lake Road. I don't see any referrals saying, regarding  
12 the nine township buffer zone in that fellow's answer.

13 Q. Okay. We'll just go through what it  
14 does say then.

15 And the next one, which is the comment  
16 sheet of C.J. Blatter?

17 A. Yes.

18 Q. There is a comment on the second page  
19 of that document under Item 5 which reads as follows:

20 "I have been fishing and hunting for many  
21 years and to restrict me from this  
22 proposed road is not fair. Just because  
23 someone is there first does not entitle  
24 him or her to be the lone user of an area.  
25 Roads which are built in wilderness areas



1 by logging companies are subsidized by the  
2 citizens..." I believe that is "...and  
3 subsidized by the citizens should not be  
4 restricted. I totally disagree with any  
5 road restriction. If Megisan is an  
6 exception other lodges will want the same  
7 restriction near their lodge and nearby  
8 accessible lakes."

9 Do you agree with that, that's what the  
10 document says or would you like to --

11 A. No, I trust you.

12 Again, he is relating to the Torrance Lake  
13 Road and I'll tell you why, because that was the only  
14 map displayed at the open house. The nine township  
15 buffer zone was not displayed there and they are  
16 referring totally to that Torrance Lake access road.

17 Q. Would you agree that there are other  
18 proposed roads in the -- on the map shown for Carton and  
19 Ewan Township, which is Exhibit 1504?

20 A. Yes.

21 Q. And the final comment --

22 MADAM CHAIR: Excuse me. One minute, Ms.  
23 Blastorah. I'm just confused.

24 These comments were obtained from the  
25 November 1989 public meeting, but Mr. Nixon's map of the

1 proposed reserve was shown at a March open house.

2 THE WITNESS: That's correct.

3 MS. BLASTORAH: I would just like to  
4 clarify, Mrs. Koven, these -- Mr. Nixon's evidence was  
5 in relation to comment sheets from the same November  
6 open house, and in the answer to his interrogatory, MNR  
7 No. 8-C, he indicated that although there had been  
8 opposition to his proposal at the March open house he  
9 felt that there was more support at the November open  
10 house and he filed some information sheets from that  
11 second open house.

12 Mr. Martel, are you following what I'm  
13 saying or am I confusing you further? There were two  
14 open houses, one in March, and perhaps if you review MNR  
15 No. 8 that would assist later. And I'm just attempting  
16 to clarify there was still --

17 MR. MARTEL: Could I just get a  
18 clarification.

19 Mr. Nixon, Mr. Lissard recommended that  
20 the meeting on March the 15th, '89, that the townships  
21 be displayed.

22 MADAM CHAIR: That was on March 30th.

23 MR. MARTEL: Mr. Nixon is saying it wasn't  
24 on March the 30th, I think.

25 Was the buffer, the nine townships shown

1 at the March 30th meeting as recommended by Mr. Lissard?

2 THE WITNESS: The nine townships were  
3 shown at a meeting that we had of course with the timber  
4 management planning team. Then there was another  
5 meeting following that in the evening which had to  
6 relate to timber, fisheries, et cetera. And those maps  
7 were left out on the wall for the people that were  
8 coming in for that meeting to look at, and then after  
9 that meeting then he had suggested that then they be put  
10 forth on the next meeting, which would be the March  
11 meeting.

12 MR. MARTEL: So they were -- okay. What  
13 happened at the March meeting? They were shown March  
14 the 30th and 31st.

15 MS. BLASTORAH: Perhaps if I can put a  
16 couple of questions, Mr. Martel, I can help clarify  
17 this, I hope.

18 Q. I think you agreed, Mr. Nixon, and  
19 maybe we can just go over it again. You attended an  
20 information centre for the timber management plan on  
21 March 30th and 31st; correct?

22 A. Yes.

23 Q. And Mrs. Fuller also attended that  
24 information centre; correct?

25 A. If she's listed there as a

1 participant, yes.

2 Q. Well, you were at the meeting. Can  
3 you confirm that --

4 A. Well, there were numerous meetings,  
5 and if I can --

6 Q. Well, certainly, take your time and  
7 review anything you would like.

8 Do you recall the information centre held  
9 on the afternoon and evening of March 30th and 31st? Do  
10 you recall those?

11 A. Yes.

12 Q. And do you recall attending both of  
13 those sessions on the 30th and 31st?

14 A. Yes.

15 Q. Do you recall whether Mrs. Fuller was  
16 there?

17 A. I believe she was there not for the  
18 total time of the meeting because she has a full-time  
19 job, and so I attended for the total duration of the  
20 meeting and took her place and she attended --

21 Q. And your maps were on display on both  
22 of those occasions, the 30th and 31st; correct?

23 A. I'm not sure if they were or not.  
24 Right now I have to check and see if they are noted in  
25 your filings. Now, I mean, we are really getting

1 confused on dates here. Are you inferring that they  
2 were shown?

3 Q. Well, I thought we had agreement that  
4 they had been, but perhaps I can just --

5 MR. LINDGREN: My understanding, for what  
6 it's worth, is that the maps were displayed in the March  
7 information centre, but they were not displayed in the  
8 November open house.

9 MS. BLASTORAH: That was my understanding  
10 as well, and perhaps we could just get everybody to the  
11 same understanding.

12 MR. CASSIDY: It's mine as well.

13 MADAM CHAIR: Thanks, Mr. Cassidy. That  
14 solves the whole problem.

15 MS. BLASTORAH: I'm sorry, I hadn't  
16 intended to confuse things. I thought I would help  
17 clarify things, but it appears not to be the case. And  
18 if I can just refer to an interrogatory I think that  
19 might help.

20 MS. BLASTORAH: MNR No. 5-B.

21 Q. Would you refer to that, Mr. Nixon.

22 A. What is that?

23 Q. MNR Interrogatory No. 5-B, and  
24 perhaps we can just confirm that information. Do you  
25 have that?



1 A. NO. 5-B.

2 Q. Right. In that interrogatory we asked  
3 you:

4 "Does Mr. Nixon agree that the notice of  
5 the information centre was sent to him on  
6 or about February 22nd, 1989, and the  
7 information was held on March 30th and  
8 31st, 1989, and he attended the  
9 information centre on both days."

10

11 And your answer was, "Yes."

12 A. Yes.

13 Q. And I thought you had agreed that your  
14 map was in fact on display at that time.

15 A. Yes.

16 Q. Thank you.

17 A. 30th and 31st.

18 Q. Thank you. I think I'll move on  
19 before I confuse things further.

20 And if I could, Mrs. Koven, I would just  
21 like to mark these Information Centre comment sheets as  
22 the next exhibit and I'll leave that.

23 THE WITNESS: Are we through with those  
24 comments sheets?

25 MS. BLASTORAH: Yes. I think we'll move

1 on to another area; I see the clock is getting close to  
2 4 o'clock.

3 MADAM CHAIR: That will be Exhibit 1511.

4 MS. BLASTORAH: Thank you.

5 MADAM CHAIR: And there are three comments  
6 sheets?

7 MS. BLASTORAH: There are three comment  
8 sheets and I've read out the names. It's six pages in  
9 total, the exhibit, and I'll provide copies for the  
10 board and the other parties.

11 ---EXHIBIT NO. 1511: Three Information Centre comment  
12 sheets, 6 pages

13 MR. MARTEL: If I could just back up on  
14 those.

15 All the comments that I've read seem to  
16 infer that there was a concern with the road. I didn't  
17 get where -- in fact I think each person said if  
18 government money were spent then people had a right to  
19 use the road. I can't figure out how that ties in with  
20 Megisan and the fact that there was supposed to be some  
21 expression in those three sheets contrary, or did not  
22 support --

23 THE WITNESS: The nine township buffer  
24 zone?

25 MR. MARTEL: Yes. I haven't heard them

1 yet.

2 THE WITNESS: I haven't either, and that's  
3 why I was asking --

4 MS. BLASTORAH: I'm sorry, Mr. Martel,  
5 you haven't heard what?

6 MR. MARTEL: I haven't heard opposition to  
7 Megisan, per se. I've heard opposition to money being  
8 spent on roads but the road doesn't go into Megisan.  
9 The road stops two and a half miles away. I thought the  
10 comments referred only to the expenditure of money and,  
11 therefore, the public having a right to use those roads.

12 THE WITNESS: That's my impression too.  
13 And I believe they are commenting on this Torrance Lake  
14 road because at the open house, the November open house,  
15 which -- I'll read this here. Says,

16 "The tourist operator on Megisan Lake  
17 requested that Torrance Lake Road be  
18 destroyed to prevent vehicle access."

19 And it is my opinion that all these  
20 comments are referring to this road. And you are saying  
21 dollar road. If they are referring to money spent then  
22 they may infer to some of the roads in that timber  
23 management plan, and if public money is spent and they  
24 want be able to access them, but there are no roads  
25 there. So they are referring only to this road here.

1 MS. BLASTORAH: Q. Mr. Nixon, am I  
2 correct that your proposal for the nine townships would  
3 include the areas of Torrance Lake Road, all of it,  
4 Carton and Ewan Township?

5 A. For the nine townships, yes.

6 Q. And your proposal calls for no  
7 vehicular access within that reserve area?

8 A. That's correct.

9 Q. Thank you. I would like to move on  
10 now.

11 MR. CASSIDY: I'm confused too because I'm  
12 looking at the ones that were filed for Forest for  
13 Tomorrow, and most of those relate to the road as well.

14 MR. MARTEL: Yes. That's the point I'm  
15 trying to make, Mr. Cassidy. Do they refer to the lake  
16 or do they refer to the road?

17 MR. CASSIDY: Equally, Mr. Martel, is my  
18 point. From what I can see from what was filed here, in  
19 fact comments about road locations, not about the  
20 townships. So what Forest for Tomorrow filed is -- I'm  
21 not sure it's relevant either.

22 MS. BLASTORAH: Perhaps, Mr. Martel, if we  
23 can -- I intend to move on to what the proposals  
24 actually are. I don't want to spend any more time on  
25 this. I don't think very much turns on --

1 MADAM CHAIR: That's fine. We've got  
2 Mr. Nixon's opinion about what the comments mean.

3 MS. BLASTORAH: Thank you. For what it's  
4 worth, I hope maybe some more light will be shed on when  
5 we look at the actual proposals.

6 I would like to put up some maps, Mr.  
7 Nixon, which I understand were prepared by you and  
8 presented to the Ministry of Natural Resources and some  
9 other individuals as well, I believe.

10 Now, the first of these is a map -- I'm  
11 just trying to get an accurate description of this,  
12 Mrs. Koven -- it's a map sheet entitled Wenebagon  
13 Lake -- W-e-n-e-b-e-g-o-n -- and it's provincial series  
14 map -- I'm not sure how to read these. I'm afraid I'll  
15 have to ask for some assistance.

16 Oh, I believe the map series number is  
17 covered up by a label that's been put on this. It is  
18 township map for the Wenebagon Lake area and I showed  
19 this --

20 ---Discussion off the record.

21 MS. BLASTORAH: I'm advised that that  
22 would be adequate identification, the fact that it's a  
23 provincial series map for the Wenebagon Lake.

24 Q. And, Mr. Nixon, can you confirm this  
25 was the map prepared by you? I showed this to you



1 before and I think it's a photocopy of a map prepared by  
2 you.

3 A. Yes.

4 MS. BLASTORAH: Okay. Could we have that  
5 put up on the board and marked as an exhibit, please.

6 MADAM CHAIR: That will be Exhibit 1512.

7 ---EXHIBIT NO. 1512: Township map of Wenebagon Lake.

8 MS. BLASTORAH: Q. And this is the map  
9 which you presented at the March 3rd, 1989, meeting; is  
10 correct, Mr. Nixon?

11 A. Yes.

12 Q. And this is the proposal that deals  
13 with 20 townships, correct, your original proposal  
14 dealing with 20 townships?

15 A. Well, I counted 16, 17, 18 townships,  
16 but that's close enough.

17 Q. So this is your original proposal in  
18 any event?

19 A. Yes. But again, dealing with the  
20 Sault Ste Marie District we are dealing with nine  
21 townships.

22 Q. Thank you.

23 And the Sault Ste Marie area of this  
24 original proposal is marked off in the lower left-hand  
25 corner by a black line and bordered on the left and

1 bottom by a green line; correct?

2 A. No. This is the district line here  
3 which runs all the way down, of course. This is my --  
4 this is the end of the Sault Ste Marie District.

5 Q. No. I intended to indicate that was  
6 the end of your proposed reserve for that area, for that  
7 district there.

8 A. Yes.

9 Q. And that's the area that was described  
10 in your answer to OFIA Interrogatory No. 2; correct?  
11 And please take a minute to confirm that if you need to.

12 A. Question No. 2?

13 Q. Yes.

14 A. With regards to the nine townships,  
15 yes.

16 Q. And each of those townships is 36  
17 square miles; correct?

18 A. Thirty-six square miles?

19 Q. Yes. I believe the townships are six  
20 miles by six miles.

21 A. Yes.

22 Q. Thank you.

23 Now, you indicated that your proposal was  
24 not taken seriously, I think, when you presented it;  
25 correct?

1 A. That's correct.

2 Q. Notwithstanding that comment, would  
3 you refer to the minutes of that March 3rd meeting,  
4 please, which are contained in your appendix No. D, like  
5 dog. And I'm referring to page 2 of that document.

6 A. Yes.

7 Q. Would you agree that your proposal was  
8 put forward and there was at least some discussion of  
9 it; in fact, that is indicated in the minutes?

10 A. Yes.

11 Q. Thank you.

12 Now, in paragraph 13 of your witness  
13 statement, you indicated that you attended a committee  
14 meeting on April 26, 1989.

15 I would just like to clarify. That was  
16 again a meeting of the planning team and district  
17 advisory committee; correct?

18 A. I'm sorry. Could you repeat the  
19 document and where it's found.

20 Q. I'm sorry. It's your witness  
21 statement, which is this document.

22 A. Yes.

23 Q. Paragraph 13 was the first reference  
24 I made.

25 A. Paragraph 13, yes.

1 Q. Okay. And you indicate there that you  
2 had attended a committee meeting on April 26, 1989.

3 A. Yes.

4 Q. And I'm just asking you to confirm  
5 that that was again a meeting of the district advisory  
6 committee and the ministry's timber management planning  
7 team.

8 A. Yes.

9 Q. Now, would you turn to appendix J,  
10 which are the minutes of that meeting, and specifically  
11 page 2 of appendix J.

12 A. Appendix J, page 2, yes.

13 Q. Now, first of all, perhaps we should  
14 just confirm the attendance, which is on the first page  
15 of that. And I see that Eileen Fuller was in attendance  
16 at this meeting; correct?

17 A. That's correct.

18 Q. And she is again the tourism  
19 representative on the district advisory committee?

20 A. That's correct.

21 Q. And Mr. Payne was there as well?

22 A. That's correct.

23 Q. Now, I would just like to review some  
24 of the things that are noted in these minutes.

25 You indicated in your evidence this

1 afternoon, and I can't recall if it was in direct or in  
2 cross-examination by Mr. Cassidy, that you felt there  
3 was a problem in that the districts of Chapleau and  
4 Blind River and Sault Ste Marie weren't really  
5 communicating in terms of preparing their plans. Did I  
6 understand your evidence correctly?

7 A. Yes.

8 Q. Would you refer to the second  
9 paragraph on page 2 of appendix J. That paragraph notes  
10 in quote,

11 "In consultation with the surrounding  
12 districts (also included in buffer)..."  
13 and this is referring to your proposed  
14 tourism buffer; correct?

15 A. Yes.

16 Q. "...the working group produced a  
17 series of individualized maps showing the  
18 MNR's proposed prescriptions for the  
19 protection of values for the remote camps  
20 and these were briefly outlined for the  
21 TMP team by D. Bean." Am I correct that  
22 Mr. Bean is the district planner?

23 A. Yes.

24 Q. And also reviewed were proposals for  
25 access. That's what that paragraph indicates.



1 A. Yes.

2 Q. And two paragraphs, or the second  
3 paragraph down there's a notation that maps were drawn  
4 up by D. Massey. And Mr. Massey is the gentleman who is  
5 a principal in the Ontario Wilderness Vacations and  
6 Airdale that you referred to this morning?

7 A. Yes.

8 Q. And those maps were introduced showing  
9 his impression of the prescriptions needed to protect  
10 his resort area; correct?

11 A. Yes.

12 Q. And at the bottom of that page there's  
13 a notation that the:

14 "Chairman stressed that many new  
15 prescriptions..." I beg your pardon,  
16 "...that many prescriptions being proposed  
17 at this time are new and have not been put  
18 to public review but are a result of  
19 public input to date."

20 Correct? That's what the document says?

21 A. That's what the document says.

22 Q. Okay. Now, turning over to page 3  
23 there's a notation that the committee at this point, at  
24 3 o'clock, was joined by some remote tourism outfitters  
25 and the new attendees are noted as being yourself,

1 G. Nixon, N. Pipply, and D. Massey; correct?

2 A. Yes.

3 Q. And that's the same Mr. Massey?

4 A. Yes, it is.

5 Q. So you did attend that 3 o'clock and  
6 following session of this meeting?

7 A. Yes.

8 Q. I'd just like to review some of the  
9 the comments noted here.

10 First of all, under No. 1, on that same  
11 page there's a reference to Goulet Lake; correct?

12 A. Yes.

13 Q. And that's one of the lakes within  
14 your reserve proposal; correct?

15 A. Yes, it is.

16 Q. And I note that the minutes there  
17 indicate that:

18 "Proposed harvest and access prescriptions  
19 were reviewed. Don Massey expressed  
20 satisfaction in the improvements made in  
21 the proposal. The maps submitted by Mr.  
22 Massey to the MNR for Goulet and Gord  
23 Lakes were instrumental in developing the  
24 proposal. D. Massey wished to review in  
25 more detail the proposal but was generally

1                   pleased with the level of protection. Mr.  
2                   Massey suggested the following items and  
3                   these were discussed: Item A, optimum  
4                   times for logging should coincide with  
5                   off-season in the tourism trade; Item B,  
6                   noise restriction be enforced (i.e. no  
7                   operations from 6 p.m. to 6 a.m. or from 8  
8                   p.m. to 6 a.m. during remote experience  
9                   trips); Item C, no vehicle access to the  
10                  remote camps; access roads to be signed  
11                  and enforcement to be carried out using  
12                  integrated monitoring involving any/all  
13                  field personnel; Item D, any heavy  
14                  equipment operations would be conducted in  
15                  the minimum of time included MNR's  
16                  scarification and regeneration."

17                 Correct?

18                 A. Yes.

19                 Q. And those are essentially the same  
20                 kinds of concerns that you were discussing this morning;  
21                 that is, optimum times for logging, noise restrictions  
22                 and so on?

23                 A. Yes.                                 .

24                 Q. Thank you. And I won't take the time,  
25                 Mrs. Koven, to go through all the rest of this. Perhaps

1 I would just refer the to board to item 2, which is Gord  
2 Lake, and ask Mr. Nixon to confirm that that is another  
3 lake in the area of your reserve, proposed reserve,  
4 correct?

5 A. That's correct.

6 Q. And the next item is Megisan Lake,  
7 which is of course the area in which your lodge is  
8 located.

9 And I would refer to one last item. On  
10 the bottom of the page there is a bullet point which  
11 reads: "Don Massey" -- perhaps I should do this in  
12 order.

13 "G. Nixon stated that any proposal  
14 granting logging operations within  
15 this..." and this would be your proposed  
16 reserve; is that correct, Mr. Nixon? This is referring  
17 to a comment by you.

18 A. Yes.

19 Q. And that comment refers to your  
20 proposed reserve; is that correct?

21 A. (No response).

22 Q. Perhaps if you look at the paragraph  
23 above it indicates:

24 "G. Nixon submitted and explained a new  
25 option which displayed a reduced size

1 buffer zone of townships and sections of  
2 townships." Correct?

3 A. Yes.

4 Q. And then it goes on and reads -- and  
5 that would be your nine township proposal?

6 A. No. That would be -- the new option  
7 would be the minimum buffer zone, because it says here,  
8 "G. Nixon submitted an explanation and  
9 explained a new option which displayed a  
10 reduced size buffer zone." That would be  
11 the minimum buffer zone.

12 Q. Well, I have another map here which I  
13 believe you provided to the ministry at that meeting,  
14 and perhaps we can put that up and we can just clarify  
15 what it is we're talking about.

16 Again, this is the provincial series map  
17 of the Wenebagon Lake showing proposed buffer zones  
18 marked in yellow and minimum buffer zone marked in  
19 orange.

20 That was a map prepared by you, Mr. Nixon?

21 A. Yes.

22 Q. It's a photocopy of the map prepared  
23 by you, actually.

24 MS. BLASTORAH: And could I have that  
25 marked as an exhibit, please?



1 MADAM CHAIR: That will be Exhibit 1513.

2 ---EXHIBIT NO. 1513: Photocopy of a map of Wenebagon  
3 Lake.

4 MS. BLASTORAH: Q. Is this then what you  
5 are calling the minimum buffer zone, Mr. Nixon?

6 A. That's correct, and you said that's  
7 what he said about the area in March; is that correct?

8 Q. I was just read from the legend on the  
9 lower right-hand side there.

10 A. Yes.

11 Q. Okay. So in this note in appendix J,  
12 am I correct then that your comments that "any proposal  
13 granting logging operations within this is still  
14 acceptable", refers to this map?

15 A. It says "unacceptable".

16 Q. "Unacceptable", I beg your pardon,  
17 refers to this map which has just been marked as Exhibit  
18 1513. Is that correct?

19 A. Yes.

20 Q. And that bullet point goes on to read,  
21 "However, J. Payne..." and that would be Mr. Payne, the  
22 representative of the Ministry of Tourism and  
23 Recreation?

24 A. Yes.

25 Q. "...commented that he was satisfied

1                   that MNR and Industry, i.e, Don Massey,  
2                   seemed to be combining all efforts to  
3                   protect tourism values as much as  
4                   possible."

5                   And the next bullet point reads:

6                   "Don Massey indicated that every group  
7                   interest must give a bit."

8                   Correct?

9                   A. Yes. I see those comments there.

10                  Q. Thank you.

11                  Now, I understand that the next day you  
12                  come into the district office and met with the district  
13                  planner, Mr. Bean; correct?

14                  A. That's correct.

15                  Q. And during that meeting you provided a  
16                  further alternative position in the event that your  
17                  reserve proposal was not accepted; correct?

18                  A. That's correct.

19                  Q. And you provided that to us in  
20                  response to Ministry of Natural Resources Interrogatory  
21                  No. 11. Do you have that?

22                  A. Interrogatory No. 11?

23                  Q. Yes. Ministry of Natural Resources  
24                  Interrogatory No. 11.

25                  ---Discussion off the record.

1 MS. BLASTORAH: Q. Do you have that?

2 A. I do now.

3 Q. Thank you. Sorry. I thought you had  
4 a copy.

5 Now, I would just like to review this and  
6 I'll try and move through this quickly so we can finish  
7 up.

8 This letter sets out -- provided by you in  
9 response to the interrogatory, sets out a number of  
10 items, and I would just like to compare those to the  
11 final proposals in the timber management plan and ask  
12 you to confirm them, if that's acceptable.

13 The first is, your item is "Proposed road  
14 corridors to be restricted today vehicular access."

15 Would you agree with me that in the final  
16 timber management plan there is no secondary -- that  
17 secondary and tertiary roads are restricted to vehicular  
18 access for resource extraction purposes. Can you  
19 confirm that?

20 A. Yes.

21 Q. And your next item is a skyline  
22 reserve for lakes numbered, 30, 21 -- various other  
23 numbered lakes and Poetry and Eel Lake.

24 A. That's correct.

25 Q. And can you confirm that area of

1 concern prescriptions have been placed on all of those  
2 lakes which are in proximity to allocated areas and that  
3 all of those lakes are provided with prescriptions which  
4 include reserves or some kind of --

5 A. Yes.

6 Q. Thank you.

7 And the next item is under primary roads  
8 in Ewan Township. Your first item is "Hydro access to  
9 be straightened out as per map."

10 Now, there was no map attached to this  
11 letter that you provided to us. In any event --

12 MR. LINDGREN: Madam Chair, Ms. Blastorah,  
13 it was provided to us and we were asked whether or not  
14 he had prepared it.

15 MS. BLASTORAH: I'm sorry, I thought this  
16 was given to us in response to our interrogatory. Okay.

17 Q. In any event, would you agree that the  
18 the hydro line access is not under the jurisdiction of  
19 the Ministry of Natural Resources; that's a hydro line  
20 access; correct?

21 A. No. That particular primary road in  
22 Ewan Township, we are talking about this new and  
23 existing primary road. We're talking about this one  
24 here in Ewan Township. We are not talking about the  
25 hydro road itself. And I drew on a map for Mr. Bean the

1 realignment of this particular primary road corridor.

2 Q. I see. Okay. Well, perhaps I'm mixed  
3 up then. I understand that in fact your proposal in  
4 relation to that primary road corridor was in fact  
5 accepted and has been put forward in the final plan?

6 A. This road corridor right here?

7 Q. Yes. I understood that you had put  
8 forward a proposal and your preferred option was the one  
9 that was adopted in the final plan.

10 A. Yes.

11 Q. Thank you.

12 And in Ewan Township the -- you also --  
13 I'm sorry.

14 Now, moving on to page 3, you indicated  
15 that with regard to harvesting of timber you wanted some  
16 restrictions on the season and timing of operations.  
17 Would you agree that that's what your Item 1 indicates  
18 there?

19 A. Which one are we talking at?

20 Q. I'm sorry. I'm looking at page 2 of  
21 your letter of April 28, 1989.

22 MADAM CHAIR: April 27th.

23 MS. BLASTORAH: I may have the wrong thing  
24 attached to this. I believe -- you have a handwritten  
25 note, do you, Mr. --



1                   MADAM CHAIR: I have a one-page  
2 handwritten note.

3                   MS. BLASTORAH: I'm sorry. I have --  
4 apparently there's a typed version of the same document  
5 that Mr. Nixon --

6                   MADAM CHAIR: The date is April 27th.

7                   MS. BLASTORAH: The date on this one, and  
8 I'll refer to the same one that everyone else is  
9 referring to, is April 27th.

10                  Q. To shorten this up, Mr. Nixon, would  
11 you agree that no timber harvesting activities within  
12 the defined ring of lakes that you've indicated as --  
13 and they are mostly numbered lakes as well as Poetry and  
14 Eel Lakes -- are to be conducted under the final timber  
15 management plan for Ranger Lake, Crown Management Unit,  
16 between the periods May 1st and June 15th and September  
17 15th and October 31st?

18                  Can you confirm that's what the final  
19 prescription in the plan calls for?

20                  A. No, I can't confirm.

21                  Q. So you have no information?

22                  A. Not with me, no.

23                  Q. And if I were to advise you that was  
24 the case you couldn't disagree with that?

25                  A. No, I couldn't.

1                   Q. Okay. And that those operations would  
2 be restricted to the hours of 6 o'clock in the morning,  
3 or would be restricted to operations during the hours 6  
4 o'clock in the morning to 6 o'clock in the evening from  
5 June 16th to September 14th. You can't confirm that  
6 either then?

7                   A. No.

8                   Q. And are you able to confirm that  
9 winter harvesting is an option still being considered  
10 under the plan for Carton Township?

11                  A. I was aware of discussions still  
12 ongoing on that, yes.

13                  Q. And that there are additionally  
14 prescriptions limiting the proximity of road access for  
15 primary, secondary, and tertiary roads to Afflac Lake?

16                  A. Eliminating road access?

17                  Q. Limiting the proximity. In other  
18 words, there is a prescription that says how close  
19 primary, secondary and tertiary roads can come to.

20                  A. Yes.

21                  Q. And you can confirm that that is  
22 included in the final plan?

23                  A. Well, I haven't seen the final plan  
24 but I have looked at the draft plan which I'm under the  
25 impression that is it virtually the same as the final

1 plan so I've noticed prescriptions like that in that  
2 draft plan.

3 Q. So would you agree that the items  
4 raised in your letter, or handwritten note of April  
5 27th, 1989, have been addressed at least to some extent?

6 A. Well, I would like to comment on the  
7 April letter, first of all. This letter, again at the  
8 top of this letter said, "In the event we were not  
9 granted larger buffer zones."

10 I don't want people to think I am in  
11 agreement with the timber management plan because I am  
12 not, and this letter must not be used to infer that I am  
13 in agreement with them only because this report was  
14 filed, so that at least -- I would allow the MNR  
15 information and here is what I would consider should all  
16 my efforts be revoked by the MNR or by the MOE or  
17 whomever with regard to my designation request.

18 Q. And this designation request still  
19 relates to your original proposal which was shown on  
20 the map marked as Exhibit 1512, the one underneath that  
21 one?

22 A. Yes.

23 Q. And am I correct then that -- sorry,  
24 go ahead.

25 A. Excuse me. But they also have the

1 revised buffer zones as well. The premier, the MOE, and  
2 the new minister, are all aware of the second map as  
3 well.

4 Q. Am I correct, based on your comments  
5 just now then, that you would not be willing to accept  
6 anything less than your, at least, revised proposal?

7 A. No. I would not be willing to accept  
8 anything less than the revised minimum buffer zone that  
9 I have displayed there.

10 MS. BLASTORAH: Thank you. Those are all  
11 my questions, Mrs. Koven.

12 MADAM CHAIR: Thank you, Ms. Blastorah.

13 MR. LINDGREN: I just have one question  
14 for Mr. Nixon.

15 RE-EXAMINATION BY MR. LINDGREN:

16 Q. With respect to Exhibit 1513, which is  
17 your revised proposal for the reserve, can you draw on  
18 those red arrows and red diagonal slashes?

19 A. Yes.

20 Q. What do they represent?

21 A. These arrows and the red arrows  
22 represent the current encroachment of the timber  
23 harvesting in the Sault Ste Marie District, the Chapleau  
24 District and the Blind River District and also proposed  
25 cutting for the 1990-95 term which I have written on

1       this map "proposed cutting". And I've got on here  
2       current cutting -- current cutting, proposed cutting to  
3       the Goulet Lake area that we've just discussed.

4                   And what I'm showing is that they are  
5       coming in from all sides, from all three districts. And  
6       it's generally known that we already have the plains of  
7       Chapleau, if it may be referred to as that, of all the  
8       clearcuts in the Chapleau District, the Blind River  
9       District, and Havrot and Ferrier Township are becoming  
10      the same, and of course now the Sault Ste Marie  
11      District, they are coming in from the south.

12                   So I'm showing that everything is coming  
13      in and they want to take it all out of there, which is  
14      of course why I submitted this. In my opinion, the  
15      small buffer areas for remote tourism, which, I might  
16      add, that MTR has said is the last in the tourism  
17      district.

18                   MADAM CHAIR: Thank you, Mr. Lindgren.

19                   Thank you very much, Mr. Nixon, for  
20      coming to Toronto and appearing before the board. We  
21      appreciate it.

22                   THE WITNESS: Thank you for listening  
23      to me.

24                   MADAM CHAIR: And Mrs. Nixon.

25                   Well, we'll start tomorrow morning,



1 Mr. Lindgren, at 9 o'clock.

2 MR. LINDGREN: That's correct.

3 MADAM CHAIR: With Mr. Marek.

4 MR. LINDGREN: Thank you.

5 MADAM CHAIR: Thank you.

6 ---Whereupon at 4:20 the hearing was adjourned to  
7 recommence at 9:00 a.m. Thursday, November 1, 1990.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MC/SN [c. copyright 1985]













